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SENATE BILL 6433

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Murray, Kohl-Welles, Keiser, Franklin, and King

Read first time 01/16/08. Referred to Committee on Labor, Commerce, Research & Development.

1            AN ACT Relating to making technical changes to laws relating to  
2 labor regulations; amending RCW 49.04.040, 49.04.110, 49.04.120,  
3 49.04.130, 49.08.010, 49.08.020, 49.08.030, 49.08.040, 49.08.050,  
4 49.12.005, 49.12.041, 49.12.050, 49.12.091, 49.12.101, 49.12.105,  
5 49.12.110, 49.12.121, 49.12.123, 49.12.130, 49.12.150, 49.12.170,  
6 49.12.175, 49.12.185, 49.12.200, 49.12.240, 49.12.250, 49.12.275,  
7 49.12.290, 49.12.380, 49.12.450, 49.17.020, 49.17.030, 49.17.040,  
8 49.17.041, 49.17.050, 49.17.055, 49.17.060, 49.17.070, 49.17.080,  
9 49.17.090, 49.17.100, 49.17.110, 49.17.120, 49.17.130, 49.17.140,  
10 49.17.150, 49.17.160, 49.17.170, 49.17.180, 49.17.190, 49.17.200,  
11 49.17.210, 49.17.220, 49.17.230, 49.17.240, 49.17.250, 49.17.260,  
12 49.17.270, 49.17.280, 49.17.285, 49.17.300, 49.17.320, 49.17.350,  
13 49.19.020, 49.19.030, 49.19.040, 49.22.010, 49.22.020, 49.24.010,  
14 49.24.020, 49.24.040, 49.24.060, 49.24.070, 49.24.080, 49.24.150,  
15 49.24.170, 49.24.180, 49.24.190, 49.24.220, 49.24.230, 49.24.250,  
16 49.24.260, 49.24.290, 49.24.310, 49.24.320, 49.24.330, 49.24.340,  
17 49.24.370, 49.26.010, 49.26.013, 49.26.016, 49.26.020, 49.26.030,  
18 49.26.040, 49.26.110, 49.26.115, 49.26.125, 49.26.130, 49.28.010,  
19 49.28.040, 49.28.060, 49.28.065, 49.28.100, 49.28.120, 49.32.020,  
20 49.32.030, 49.32.050, 49.32.090, 49.32.110, 49.36.015, 49.38.010,  
21 49.40.010, 49.40.030, 49.40.040, 49.40.050, 49.40.060, 49.44.010,

1 49.44.020, 49.44.030, 49.44.040, 49.44.050, 49.44.060, 49.44.080,  
2 49.44.090, 49.44.100, 49.44.140, 49.46.020, 49.46.040, 49.46.060,  
3 49.46.070, 49.46.080, 49.46.090, 49.46.100, 49.46.110, 49.46.130,  
4 49.48.010, 49.48.030, 49.48.060, 49.48.070, 49.48.150, 49.48.210,  
5 49.52.010, 49.52.020, 49.52.030, 49.52.040, 49.52.050, 49.52.060,  
6 49.52.070, 49.52.080, 49.52.090, 49.56.010, 49.56.020, 49.56.030,  
7 49.56.040, 49.60.174, 49.60.178, 49.60.310, 49.60.360, 49.60.380,  
8 49.64.030, 49.64.040, 49.66.020, 49.66.030, 49.66.040, 49.66.050,  
9 49.66.060, 49.66.070, 49.66.080, 49.66.090, 49.66.100, 49.66.120,  
10 49.66.900, 49.70.170, 49.70.210, and 49.74.005; reenacting and amending  
11 RCW 49.12.187 and 49.60.250; and repealing RCW 49.04.141, 49.08.060,  
12 49.17.288, 49.32.072, 49.32.073, 49.32.074, and 49.32.910.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14 **Sec. 1.** RCW 49.04.040 and 2001 c 204 s 3 are each amended to read  
15 as follows:

16 (~~Upon July 22, 2001,~~) (1) All newly approved apprenticeship  
17 programs must be represented by either a unilateral or joint  
18 apprenticeship committee. Apprenticeship committees must conform to  
19 this chapter, the rules adopted by the apprenticeship council, and 29  
20 C.F.R. Part 29 and must be approved by the apprenticeship council.  
21 Apprenticeship committees may be approved whenever the apprentice  
22 training needs justify such establishment. Such apprenticeship  
23 committees shall be composed of an equal number of employer and  
24 employee representatives who may be chosen:

25 ~~((1))~~ (a) From names submitted by the respective local or state  
26 employer and employee organizations served by the apprenticeship  
27 committee; or

28 ~~((2))~~ (b) In a manner which selects representatives of management  
29 and nonmanagement served by the apprenticeship committee. The council  
30 may act as the apprentice representative when the council determines  
31 there is no feasible method to choose nonmanagement representatives.

32 (2) Apprenticeship committees shall devise standards for  
33 apprenticeship programs and operate such programs in accordance with  
34 the standards established by this chapter and by council-adopted rules.  
35 The council and supervisor may provide aid and technical assistance to

1 apprenticeship program sponsors and applicants, or potential  
2 applicants.

3 **Sec. 2.** RCW 49.04.110 and 1990 c 72 s 2 are each amended to read  
4 as follows:

5 When (~~it shall appear to~~) the department of labor and industries  
6 determines that any apprenticeship program referred to in RCW 49.04.100  
7 has failed to comply with the woman or racial minority representation  
8 requirement (~~hereinabove in such section referred to by January 1,~~  
9 ~~1970, which fact shall be determined by reports the department may~~  
10 ~~request or in such other manner as it shall see fit, then the same~~  
11 ~~shall be deemed prima facie evidence of noncompliance with~~) under RCW  
12 49.04.100 through 49.04.130 (~~and thereafter~~), no state funds or  
13 facilities shall be expended upon (~~such~~) the program(~~:- PROVIDED,~~  
14 ~~That prior to such withdrawal of funds evidence shall be received and~~  
15 ~~state funds or facilities shall not be denied if there is a showing~~  
16 ~~of~~). However, before funds are withdrawn, the apprenticeship program  
17 may submit evidence that demonstrates a genuine effort to comply with  
18 the (~~provisions~~) woman and racial minority representation requirement  
19 of RCW 49.04.100 through 49.04.130 (~~as to entrance of women and racial~~  
20 ~~minorities into the program~~). The director shall notify the  
21 appropriate federal authorities if there is noncompliance with the  
22 woman and racial minority representation (~~qualification~~) requirement  
23 under any apprenticeship program as provided for in RCW 49.04.100  
24 through 49.04.130.

25 **Sec. 3.** RCW 49.04.120 and 1990 c 72 s 3 are each amended to read  
26 as follows:

27 Every community college, vocational school, or high school  
28 (~~carrying on a program of~~) with a vocational education program shall  
29 make every effort to enlist woman and racial minority representation in  
30 the apprenticeship programs within the state and (~~are authorized to~~  
31 ~~carry out such purpose in such ways as they shall see fit~~) may take  
32 appropriate action to do so.

33 **Sec. 4.** RCW 49.04.130 and 1990 c 72 s 4 are each amended to read  
34 as follows:

35 Every employer and employee organization as well as the

1 apprenticeship council and local and state apprenticeship committees  
2 and vocational schools shall make every effort to enlist woman and  
3 racial minority representation in the apprenticeship programs of the  
4 state and shall be aided (~~(therein)~~) by the department of labor and  
5 industries (~~(insofar as such department may be able to so do without~~  
6 ~~undue interference)~~) if this aid does not unduly interfere with its  
7 other powers and duties. In addition, the legislature, in fulfillment  
8 of the public welfare, mandates those involved in apprenticeship  
9 training with the responsibility of making every effort to see that  
10 woman and racial minority representatives in such programs pursue the  
11 same to a successful conclusion.

12 **Sec. 5.** RCW 49.08.010 and 1975 1st ex.s. c 296 s 36 are each  
13 amended to read as follows:

14 (~~It shall be the duty of the chairman~~) The chair of the public  
15 employment relations commission must, upon application of any employer  
16 or employee having differences, (~~as soon as practicable, to visit the~~  
17 ~~location of such differences and to make a careful inquiry into~~)  
18 investigate the cause (~~thereof and to~~) of the dispute and advise the  
19 (~~respective~~) parties, what, if anything, ought to be done (~~or~~  
20 ~~submitted to by both to adjust said~~) to settle the dispute (~~and~~  
21 ~~should said parties then still~~). If the employer and employee fail to  
22 agree to a settlement (~~through said chairman, then said chairman shall~~  
23 ~~endeavor to have said~~), the chair must request that the parties  
24 (~~consent in writing to~~) submit their differences to a board of  
25 arbitration(~~s~~) to be chosen (~~from citizens of the state~~) as  
26 follows(~~, to wit: Said employer shall appoint one and said employees~~  
27 ~~acting through a majority, one, and these two shall select a third,~~  
28 ~~these three to constitute the board of arbitration and~~): One member  
29 must be appointed by the employer; one member must be appointed by the  
30 employee or employee group; and one member must be appointed jointly by  
31 the other board members. The findings of (~~said~~) the board of  
32 arbitration (~~to be~~) are final.

33 **Sec. 6.** RCW 49.08.020 and 1975 1st ex.s. c 296 s 37 are each  
34 amended to read as follows:

35 (~~The proceedings of said board of arbitration shall be held~~  
36 ~~before~~) The (~~chairman~~) chair of the public employment relations

1 commission (~~who~~) shall act as (~~moderator or chairman, without the~~  
2 ~~privilege of voting, and who shall~~) chair of the board of arbitration  
3 but not vote in proceedings before the board. The chair must keep a  
4 record of the proceedings, issue subpoenas, and administer oaths to the  
5 members of (~~said~~) the board(~~7~~) and any (~~witness said board may~~  
6 ~~deem necessary to summon~~) witnesses before the board.

7 **Sec. 7.** RCW 49.08.030 and 1903 c 58 s 3 are each amended to read  
8 as follows:

9 (~~Any~~) Notice or process issued by the board (~~herein created,~~)  
10 of arbitration shall be served (~~by any sheriff, coroner or constable~~  
11 ~~to whom the same may be directed, or in whose hands the same may be~~  
12 ~~placed for service~~) in the manner described in chapter 4.28 RCW.

13 **Sec. 8.** RCW 49.08.040 and 1975-'76 2nd ex.s. c 34 s 144 are each  
14 amended to read as follows:

15 (~~Such~~) Arbitrators shall receive five dollars per day for each  
16 day (~~actually~~) engaged in (~~such~~) arbitration and travel expenses in  
17 accordance with RCW 43.03.050 and 43.03.060 (~~as now existing or~~  
18 ~~hereafter amended~~) to be paid (~~upon certificates of the director of~~  
19 ~~labor and industries out of the fund appropriated for the purpose or at~~  
20 ~~the disposal of~~) by the department of labor and industries  
21 (~~applicable to such expenditure~~).

22 **Sec. 9.** RCW 49.08.050 and 1903 c 58 s 5 are each amended to read  
23 as follows:

24 (~~Upon the failure of the director of labor and industries, in any~~  
25 ~~case, to secure the creation of a board of arbitration, it shall become~~  
26 ~~his duty to~~) If a board of arbitration is not established, the  
27 director of the department of labor and industries must request a sworn  
28 statement from each party to the dispute of the facts upon which their  
29 dispute and their reasons for not submitting the (~~same~~) dispute to  
30 arbitration are based. Any sworn statement made to the director of  
31 labor and industries under this (~~provision shall be for public use and~~  
32 ~~shall be given publicly in such newspapers as desire to use it~~)  
33 section is subject to public disclosure.

1       **Sec. 10.** RCW 49.12.005 and 2003 c 401 s 2 are each amended to read  
2 as follows:

3       (~~For the purposes of this chapter:~~) The definitions in this  
4 section apply throughout this chapter unless the context clearly  
5 requires otherwise.

6       (1) "Department" means the department of labor and industries.

7       (2) "Director" means the director of the department of labor and  
8 industries, or the director's designated representative.

9       (3)(a) Before May 20, 2003, "employer" means any person, firm,  
10 corporation, partnership, business trust, legal representative, or  
11 other business entity which engages in any business, industry,  
12 profession, or activity in this state and employs one or more employees  
13 but does not include the state, any state institution, any state  
14 agency, political subdivision of the state, or any municipal  
15 corporation or quasi-municipal corporation. However, for the purposes  
16 of RCW 49.12.265 through 49.12.295, 49.12.350 through 49.12.370,  
17 49.12.450, and 49.12.460 only, "employer" also includes the state, any  
18 state institution, any state agency, political subdivisions of the  
19 state, and any municipal corporation or quasi-municipal corporation.

20       (b) On and after May 20, 2003, "employer" means any person, firm,  
21 corporation, partnership, business trust, legal representative, or  
22 other business entity which engages in any business, industry,  
23 profession, or activity in this state and employs one or more  
24 employees, and includes the state, any state institution, state agency,  
25 political subdivisions of the state, and any municipal corporation or  
26 quasi-municipal corporation. However, this chapter and the rules  
27 adopted thereunder apply to these public employers only to the extent  
28 that this chapter and the rules adopted thereunder do not conflict  
29 with: (i) Any state statute or rule; and (ii) respect to political  
30 subdivisions of the state and any municipal or quasi-municipal  
31 corporation, any local resolution, ordinance, or rule adopted under the  
32 authority of the local legislative authority before April 1, 2003.

33       (4) "Employee" means an employee who is employed in the business of  
34 the employee's employer whether by way of manual labor or otherwise.

35       (5) "Conditions of labor" means and includes the conditions of rest  
36 and meal periods for employees including provisions for personal  
37 privacy, practices, methods and means by or through which labor or  
38 services are performed by employees and includes bona fide physical

1 qualifications in employment, but shall not include conditions of labor  
2 otherwise governed by statutes and rules and regulations relating to  
3 industrial safety and health administered by the department.

4 (6) ~~((For the purpose of chapter 16, Laws of 1973 2nd ex. sess. a))~~  
5 "Minor" ~~((is defined to be))~~ means a person ~~((of either sex))~~ under the  
6 age of eighteen years.

7 **Sec. 11.** RCW 49.12.041 and 1994 c 164 s 14 are each amended to  
8 read as follows:

9 ~~((It shall be the responsibility of))~~ The director ~~((to))~~ must  
10 investigate the wages, hours, and conditions of employment of all  
11 employees, including minors ~~((, except as may otherwise be provided in~~  
12 ~~chapter 16, Laws of 1973 2nd ex. sess))~~. The director, or the  
13 director's authorized representative, ~~((shall have full authority to))~~  
14 may require statements from all employers, relative to wages, hours,  
15 and working conditions and ~~((to))~~ may inspect the books, records, and  
16 physical facilities of all employers subject to ~~((chapter 16, Laws of~~  
17 ~~1973 2nd ex. sess))~~ this chapter. Such examinations shall take place  
18 within normal working hours, within reasonable limits, and in a  
19 reasonable manner.

20 **Sec. 12.** RCW 49.12.050 and 1994 c 164 s 15 are each amended to  
21 read as follows:

22 Every employer ~~((shall))~~ must keep a record of the names of all  
23 employees employed by him or her, and ~~((shall on request))~~ must permit  
24 the director to inspect ~~((such))~~ this record upon request.

25 **Sec. 13.** RCW 49.12.091 and 1994 c 164 s 16 are each amended to  
26 read as follows:

27 After an investigation has been conducted by the department of  
28 wages, hours, and conditions of labor ~~((subject to chapter 16, Laws of~~  
29 ~~1973 2nd ex. sess.))~~, the director ~~((shall))~~ must be furnished with all  
30 information relative to ~~((such))~~ the investigation ~~((of wages, hours~~  
31 ~~and working conditions))~~, including current statistics on wage rates in  
32 all occupations subject to ~~((the provisions of chapter 16, Laws of 1973~~  
33 ~~2nd ex. sess))~~ this chapter. Within a reasonable time thereafter, if  
34 the director finds that in any occupation, trade, or industry,  
35 ~~((subject to chapter 16, Laws of 1973 2nd ex. sess.))~~ the wages paid

1 to employees are inadequate to supply the necessary cost of living, but  
2 not to exceed the state minimum wage as prescribed in RCW 49.46.020,  
3 (~~as now or hereafter amended,~~) or that the conditions of labor are  
4 detrimental to the health of employees, the director (~~shall have~~  
5 ~~authority to prescribe~~) may adopt rules (~~and regulations~~) for the  
6 purpose of adopting minimum wages for occupations not otherwise  
7 governed by minimum wage requirements fixed by state or federal  
8 statute, or a rule or regulation adopted under such statute (~~, and, at~~  
9 ~~the same time have the authority to prescribe~~). The director may also  
10 adopt rules (~~and regulations~~) fixing standards, conditions, and hours  
11 of labor for the protection of the safety, health, and welfare of  
12 employees for (~~all or specified~~) occupations subject to (~~chapter 16,~~  
13 ~~Laws of 1973 2nd ex. sess. Thereafter, the director shall conduct a~~  
14 ~~public hearing in accordance with the procedures of the administrative~~  
15 ~~procedure act, chapter 34.05 RCW, for the purpose of the adoption of~~  
16 ~~rules and regulations fixing minimum wages and standards, conditions~~  
17 ~~and hours of labor subject to the provisions of chapter 16, Laws of~~  
18 ~~1973 2nd ex. sess~~) this chapter. After (~~such~~) the rules (~~become~~  
19 ~~effective~~) take effect, copies (~~thereof shall~~) must be supplied to  
20 employers who may be affected by (~~such~~) the rules and (~~such~~) these  
21 employers (~~shall~~) must post (~~such~~) the rules, (~~where possible, in~~  
22 ~~such~~) in a place or places (~~,~~) that are reasonably accessible to all  
23 employees of (~~such~~) the employer. After the effective date of  
24 (~~such~~) the rules, it shall be unlawful for any employer in any  
25 occupation subject to this chapter (~~(16, Laws of 1973 2nd ex. sess.)~~)  
26 to employ any person for less than the rate of wages specified in  
27 (~~such~~) the rules or under conditions and hours of labor prohibited  
28 for any occupation specified in (~~such~~) the rules (~~(:—PROVIDED,~~  
29 ~~That)~~). This section (~~shall~~) does not apply to sheltered workshops.

30 **Sec. 14.** RCW 49.12.101 and 1994 c 164 s 17 are each amended to  
31 read as follows:

32 Whenever wages, standards, conditions, and hours of labor have been  
33 established by rule (~~and regulation~~) of the director, the director  
34 may upon application of either employers or employees conduct a public  
35 hearing for the purpose of the adoption, amendment, or repeal of rules  
36 (~~and regulations~~) adopted under (~~the authority of chapter 16, Laws~~  
37 ~~of 1973 2nd ex. sess~~) this chapter.

1       **Sec. 15.** RCW 49.12.105 and 1994 c 164 s 18 are each amended to  
2 read as follows:

3       An employer may apply to the director for an order for a variance  
4 from any rule (~~((or regulation))~~) establishing a standard for wages,  
5 hours, or conditions of labor adopted by the director under this  
6 chapter. The director (~~((shall))~~) must issue an order granting a  
7 variance if the director determines or decides that the applicant for  
8 the variance has shown good cause for the lack of compliance. Any  
9 order so issued (~~((shall))~~) must prescribe the conditions the employer  
10 must maintain, and the practices, means, methods, operations,  
11 standards, and processes (~~((which))~~) that the employer must adopt and  
12 utilize to the extent they differ from the standard in question. At  
13 any time the director may terminate and revoke (~~((such))~~) the order,  
14 provided the employer was notified by the director of the termination  
15 at least thirty days prior to (~~((said))~~) the termination.

16       **Sec. 16.** RCW 49.12.110 and 1994 c 164 s 19 are each amended to  
17 read as follows:

18       For any occupation in which a minimum wage has been established,  
19 the director may issue (~~((to))~~) an employer(~~((r))~~) a special certificate or  
20 permit for an employee who (~~((is physically or mentally handicapped to  
21 such a degree that he or she is unable to obtain))~~) has a physical or  
22 mental disability that prevents him or her from obtaining employment in  
23 the competitive labor market(~~((r or to))~~). The director may issue a  
24 trainee or learner not otherwise subject to the jurisdiction of the  
25 apprenticeship council, a special certificate or permit authorizing the  
26 employment of ((such)) the employee for a wage less than the legal  
27 minimum wage(~~((; and))~~). The director shall fix the minimum wage for  
28 ((said person, such)) persons receiving a special certificate or permit  
29 under this section. Special certificates or permits ((to)) may be  
30 issued only (~~((in such cases as))~~) if the director (~~((may))~~) decides the  
31 (~~((same is applied for))~~) application is made in good faith and (~~((that  
32 such))~~) the certificate or permit (~~((shall be))~~) is in force for (~~((such  
33 length of time as))~~) a time period determined by the director (~~((shall  
34 decide and determine is proper))~~).

35       **Sec. 17.** RCW 49.12.121 and 1993 c 294 s 9 are each amended to read  
36 as follows:

1 (1) The department may at any time inquire into wages, hours, and  
2 conditions of labor of minors employed in any trade, business, or  
3 occupation in the state of Washington and may adopt special rules for  
4 the protection of the safety, health, and welfare of minor employees.  
5 However, the rules may not limit the hours per day or per week, or  
6 other specified work period, that may be worked by minors who are  
7 emancipated by court order.

8 (2) The department shall issue work permits to employers for the  
9 employment of minors, after being assured the proposed employment of a  
10 minor meets the standards for the health, safety, and welfare of minors  
11 as set forth in the rules adopted by the department. No minor person  
12 shall be employed in any occupation, trade, or industry subject (~~to~~  
13 ~~chapter 16, Laws of 1973 2nd ex. sess.~~) this chapter, unless a work  
14 permit has been properly issued, with the consent of the parent,  
15 guardian, or other person having legal custody of the minor and with  
16 the approval of the school which such minor may then be attending.  
17 However, the consent of a parent, guardian, or other person, or the  
18 approval of the school which the minor may then be attending, is  
19 unnecessary if the minor is emancipated by court order.

20 (3) The minimum wage for minors shall be as prescribed in RCW  
21 49.46.020.

22 **Sec. 18.** RCW 49.12.123 and 1991 c 303 s 8 are each amended to read  
23 as follows:

24 In implementing state policy to assure the attendance of children  
25 in the public schools (~~it shall be required of~~), any person, firm, or  
26 corporation employing any minor (~~under the age of eighteen years to~~)  
27 must obtain a work permit as set forth in RCW 49.12.121 and keep  
28 (~~such~~) the permit on file during the minor's employment (~~of such~~  
29 ~~minor, and~~). Upon termination of (~~such~~) the minor's employment (~~of~~  
30 ~~such minor to return such~~), the permit must be returned to the  
31 department (~~of labor and industries~~).

32 **Sec. 19.** RCW 49.12.130 and 1913 c 174 s 16 are each amended to  
33 read as follows:

34 Any employer who discharges, or in any other manner discriminates  
35 against any employee because (~~such~~) the employee has testified or is  
36 about to testify, or because (~~such~~) the employer believes that

1 ((said)) the employee may testify in any investigation or proceedings  
2 relative to the enforcement of RCW 49.12.010 through 49.12.180, (~~shall~~  
3 ~~be deemed~~) is guilty of a misdemeanor (~~and upon conviction thereof,~~  
4 ~~shall be punished~~), punishable by a fine of (~~from~~) at least twenty-  
5 five dollars (~~to~~) and no more than one hundred dollars for each  
6 (~~such misdemeanor~~) offense.

7 **Sec. 20.** RCW 49.12.150 and 1913 c 174 s 18 are each amended to  
8 read as follows:

9 If any employee (~~shall~~) receives less than the legal minimum  
10 wage, except as (~~hereinbefore~~) provided in RCW 49.12.110, (~~said~~)  
11 the employee (~~shall be entitled to~~) may recover in a civil action the  
12 full amount of the legal minimum wage (~~as herein provided for~~),  
13 together with costs and attorney's fees to be fixed by the court,  
14 notwithstanding any agreement to work for (~~such~~) a lesser wage. (~~In~~  
15 ~~such action, however,~~) The employer shall be credited with any wages  
16 (~~which~~) that have been paid (~~upon account~~) to the employee.

17 **Sec. 21.** RCW 49.12.170 and 1994 c 164 s 21 are each amended to  
18 read as follows:

19 Except as otherwise provided in RCW 49.12.390 or 49.12.410, any  
20 employer (~~employing~~) is guilty of a misdemeanor, punishable by a fine  
21 of at least twenty-five dollars and no more than one thousand dollars,  
22 if the employer: Employs any person for whom a minimum wage or  
23 standards, conditions, and hours of labor have been specified, at less  
24 than (~~said~~) the minimum wage, or under standards, or conditions of  
25 labor or at hours of labor prohibited by (~~the~~) department rules (~~and~~  
26 ~~regulations of the director~~); or (~~violating~~) violates any other (~~of~~  
27 ~~the~~) provision(~~s~~) of this chapter (~~16, Laws of 1973 2nd ex. sess.,~~  
28 ~~shall be deemed guilty of a misdemeanor, and shall, upon conviction~~  
29 ~~thereof, be punished by a fine of not less than twenty five dollars nor~~  
30 ~~more than one thousand dollars~~)).

31 **Sec. 22.** RCW 49.12.175 and 1943 c 254 s 1 are each amended to read  
32 as follows:

33 Any employer in this state, employing both males and females, who  
34 (~~shall~~) discriminates in any way in the payment of wages as between  
35 sexes or who (~~shall~~) pays any female a (~~less~~) lesser wage, be it

1 time or piece work, or salary, than is being paid to males similarly  
2 employed, or in any employment formerly performed by males, (~~shall~~  
3 ~~be~~) is guilty of a misdemeanor. (~~If~~) Any female employee (~~shall~~)  
4 who receives less compensation because of being discriminated against  
5 on account of her sex, and in violation of this section, (~~she shall~~  
6 ~~be~~) is entitled to recover in a civil action the full amount of  
7 compensation that she would have received had she not been  
8 discriminated against. (~~In such action, however,~~) The employer shall  
9 be credited with any compensation (~~which~~) that has been paid to (~~her~~  
10 ~~upon account~~) the employee. A differential in wages between employees  
11 based in good faith on a factor or factors other than sex (~~shall~~)  
12 does not constitute discrimination within the meaning of RCW 49.12.010  
13 through 49.12.180.

14 **Sec. 23.** RCW 49.12.185 and 1973 2nd ex.s. c 16 s 17 are each  
15 amended to read as follows:

16 (~~Chapter 16, Laws of 1973 2nd ex. sess. shall~~) This chapter does  
17 not apply to newspaper vendors or carriers and domestic or casual labor  
18 in or about private residences and agricultural labor as defined in RCW  
19 50.04.150(~~, as now or hereafter amended~~).

20 **Sec. 24.** RCW 49.12.187 and 2003 c 401 s 3 and 2003 c 146 s 1 are  
21 each reenacted and amended to read as follows:

22 This chapter (~~shall not be construed to~~) does not interfere with,  
23 impede, or in any way diminish the right of employees to bargain  
24 collectively with their employers through representatives of their own  
25 choosing concerning wages or standards or conditions of employment.  
26 However, rules adopted under this chapter regarding appropriate rest  
27 and meal periods as applied to employees in the construction trades may  
28 be superseded by a collective bargaining agreement negotiated under the  
29 national labor relations act, 29 U.S.C. Sec. 151 et seq., if the terms  
30 of the collective bargaining agreement covering (~~such~~) the employees  
31 specifically require rest and meal periods and prescribe requirements  
32 concerning those rest and meal periods.

33 Employees of public employers may enter into collective bargaining  
34 contracts, labor/management agreements, or other mutually agreed to  
35 employment agreements that specifically vary from or supersede, in part

1 or in total, rules adopted under this chapter regarding appropriate  
2 rest and meal periods.

3 **Sec. 25.** RCW 49.12.200 and 1963 c 229 s 1 are each amended to read  
4 as follows:

5 ((That hereafter in this state)) Every avenue of employment ((shall  
6 be)) is open to women((~~and~~)). Any business, vocation, profession,  
7 and calling followed and pursued by men may be followed and pursued by  
8 women, and no person shall be disqualified from engaging in or pursuing  
9 any business, vocation, profession, calling, or employment, or excluded  
10 from any premises or place of work or employment, on account of sex.

11 **Sec. 26.** RCW 49.12.240 and 1985 c 336 s 1 are each amended to read  
12 as follows:

13 Every employer shall, at least annually, upon the request of an  
14 employee, permit that employee to inspect any or all of his or her own  
15 personnel ((file(s))) files.

16 **Sec. 27.** RCW 49.12.250 and 1985 c 336 s 2 are each amended to read  
17 as follows:

18 (1) Each employer shall make ((such file(s))) the employee's  
19 personnel files available locally within a reasonable period of time  
20 after the employee requests the ((file(s))) files.

21 (2) An employee annually may petition that the employer review all  
22 information in the employee's personnel ((file(s))) files that are  
23 regularly maintained by the employer as a part of his or her business  
24 records or are subject to reference for information given to persons  
25 outside of the company. The employer shall determine if there is any  
26 irrelevant or erroneous information in the ((file(s))) files, and shall  
27 remove all such information from the ((file(s))) files. If an employee  
28 does not agree with the employer's determination, the employee may at  
29 his or her request have placed in the employee's personnel file a  
30 statement containing the employee's rebuttal or correction. Nothing in  
31 this subsection prevents the employer from removing information more  
32 frequently.

33 (3) A former employee ((shall)) retains the right of rebuttal or  
34 correction for ((a period not to exceed)) up to two years.

1       **Sec. 28.** RCW 49.12.275 and 1988 c 236 s 2 are each amended to read  
2 as follows:

3       The department shall develop and furnish to each employer a poster  
4 (~~which~~) that describes an employer's obligations and an employee's  
5 rights under RCW 49.12.270 through 49.12.295. The poster must include  
6 notice about any state law(~~(r)~~) or rule(~~(r or regulation)~~) governing  
7 maternity disability leave and indicate that federal or local  
8 ordinances, laws, rules, or regulations may also apply. The poster  
9 must also include a telephone number and an address of the department  
10 to enable employees to obtain more information regarding RCW 49.12.270  
11 through 49.12.295. Each employer must display this poster in a  
12 conspicuous place. Every employer shall also post its leave policies,  
13 if any, in a conspicuous place. Nothing in this section (~~shall be~~  
14 ~~construed to~~) creates a right to continued employment.

15       **Sec. 29.** RCW 49.12.290 and 1988 c 236 s 6 are each amended to read  
16 as follows:

17       Nothing in RCW 49.12.270 through 49.12.295 (~~shall be construed~~  
18 ~~to~~) reduces any provision in a collective bargaining agreement.

19       **Sec. 30.** RCW 49.12.380 and 1991 c 303 s 2 are each amended to read  
20 as follows:

21       Upon adoption of the rules under (~~section 1 of this act~~) RCW  
22 49.12.121, the department (~~of labor and industries~~) shall implement  
23 a comprehensive program to inform employers of the rules adopted. The  
24 program shall include mailings, public service announcements, seminars,  
25 and any other (~~means deemed~~) appropriate means to inform all  
26 Washington employers of their rights and responsibilities regarding the  
27 employment of minors.

28       **Sec. 31.** RCW 49.12.450 and 1998 c 334 s 2 are each amended to read  
29 as follows:

30       (1) Notwithstanding the provisions of chapter 49.46 RCW or other  
31 provisions of this chapter, the obligation of an employer to furnish or  
32 compensate an employee for apparel required during work hours shall be  
33 determined only under this section.

34       (2) Employers are not required to furnish or compensate employees

1 for apparel that an employer requires an employee to wear during  
2 working hours unless the required apparel is a uniform.

3 (3) As used in this section, "uniform" means:

4 (a) Apparel of a distinctive style and quality that, when worn  
5 outside of the workplace, clearly identifies the person as an employee  
6 of a specific employer;

7 (b) Apparel that is specially marked with an employer's logo;

8 (c) Unique apparel representing an historical time period or an  
9 ethnic tradition; or

10 (d) Formal apparel.

11 (4) Except as provided in subsection (5) of this section, if an  
12 employer requires an employee to wear apparel of a common color that  
13 conforms to a general dress code or style, the employer is not required  
14 to furnish or compensate an employee for that apparel. For the  
15 purposes of this subsection, "common color" is limited to the following  
16 colors or light or dark variations of such colors: White, tan, or  
17 blue, for tops; and tan, black, blue, or gray, for bottoms. An  
18 employer is permitted to require an employee to obtain two sets of  
19 wearing apparel to accommodate for the seasonal changes in weather  
20 which necessitate a change in wearing apparel.

21 (5) If an employer changes the color or colors of apparel required  
22 to be worn by any of his or her employees during a two-year period of  
23 time, the employer shall furnish or compensate the employees for the  
24 apparel. The employer (~~shall be~~) is required to furnish or  
25 compensate only those employees who are affected by the change. The  
26 two-year time period begins on the date the change in wearing apparel  
27 goes into effect and ends two years from this date. The beginning and  
28 end of the two-year time period applies to all employees regardless of  
29 when the employee is hired.

30 (~~(The department shall utilize negotiated rule making as  
31 defined by RCW 34.05.310(2)(a) in the development and adoption of rules  
32 defining apparel that conforms to a general dress code or style. This  
33 subsection expires January 1, 2000.~~

34 (~~7~~)) For the purposes of this section, personal protective  
35 equipment required for employee protection under chapter 49.17 RCW is  
36 not deemed to be employee wearing apparel.

1       **Sec. 32.** RCW 49.17.020 and 1997 c 362 s 2 are each amended to read  
2 as follows:

3       (~~For the purposes of this chapter:~~) The definitions in this  
4 section apply throughout this chapter unless the context clearly  
5 requires otherwise.

6       (1) (~~The term~~) "Agriculture" means farming and includes, but is  
7 not limited to:

8       (a) The cultivation and tillage of the soil;

9       (b) Dairying;

10       (c) The production, cultivation, growing, and harvesting of any  
11 agricultural or horticultural commodity;

12       (d) The raising of livestock, bees, fur-bearing animals, or  
13 poultry; and

14       (e) Any practices performed by a farmer or on a farm, incident to  
15 or in connection with such farming operations, including but not  
16 limited to preparation for market and delivery to:

17       (i) Storage;

18       (ii) Market; or

19       (iii) Carriers for transportation to market.

20       (~~The term~~) "Agriculture" does not mean a farmer's processing for  
21 sale or handling for sale a commodity or product grown or produced by  
22 a person other than the farmer or the farmer's employees.

23       (2) (~~The term~~) "Director" means the director of the department of  
24 labor and industries, or his or her designated representative.

25       (3) (~~The term~~) "Department" means the department of labor and  
26 industries.

27       (4) (~~The term~~) "Employer" means any person, firm, corporation,  
28 partnership, business trust, legal representative, or other business  
29 entity (~~which~~) that engages in any business, industry, profession, or  
30 activity in this state and employs one or more employees or who  
31 contracts with one or more persons, the essence of which is the  
32 personal labor of such person or persons and includes the state,  
33 counties, cities, and all municipal corporations, public corporations,  
34 political subdivisions of the state, and charitable organizations(~~(+~~  
35 ~~PROVIDED, That~~)). However, any person, partnership, or business entity  
36 not having employees, and who is covered by the industrial insurance  
37 act shall be considered both an employer and an employee.

1 (5) (~~The term~~) "Employee" means an employee of an employer who is  
2 employed in the business of his or her employer whether by way of  
3 manual labor or otherwise and every person in this state who is engaged  
4 in the employment of or who is working under an independent contract  
5 the essence of which is his or her personal labor for an employer under  
6 this chapter whether by way of manual labor or otherwise.

7 (6) (~~The term~~) "Person" means one or more individuals,  
8 partnerships, associations, corporations, business trusts, legal  
9 representatives, or any organized group of persons.

10 (7) (~~The term~~) "Safety and health standard" means a standard  
11 (~~which~~) that requires the adoption or use of one or more practices,  
12 means, methods, operations, or processes reasonably necessary or  
13 appropriate to provide safe or healthful employment and places of  
14 employment.

15 (8) (~~The term~~) "WISHA" means the Washington industrial safety and  
16 health act.

17 (9) "Workplace" means any plant, yard, premises, room, or other  
18 place where an employee or employees are employed for the performance  
19 of labor or service over which the employer has the right of access or  
20 control, and includes, but is not limited to, all workplaces covered by  
21 industrial insurance under Title 51 RCW(~~, as now or hereafter amended.~~

22 ~~(9) The term "working day" means a calendar day, except Saturdays,~~  
23 ~~Sundays, and all legal holidays as set forth in RCW 1.16.050, as now or~~  
24 ~~hereafter amended, and for the purposes of the computation of time~~  
25 ~~within which an act is to be done under the provisions of this chapter,~~  
26 ~~shall be computed by excluding the first working day and including the~~  
27 ~~last working day)).~~

28 **Sec. 33.** RCW 49.17.030 and 1973 c 80 s 3 are each amended to read  
29 as follows:

30 This chapter (~~shall apply~~) applies with respect to employment  
31 performed in any workplace within the state. The department (~~of labor~~  
32 ~~and industries~~) shall provide by rule for a schedule of fees and  
33 charges to be paid by each employer subject to this chapter who is not  
34 subject to or obtaining coverage under the industrial insurance laws  
35 and who is not a self-insurer. The fees and charges collected (~~shall~~  
36 ~~be~~) are for the purpose of defraying such employer's pro rata share of  
37 the expenses of enforcing and administering this chapter.

1       **Sec. 34.** RCW 49.17.040 and 1973 c 80 s 4 are each amended to read  
2 as follows:

3       The director shall make, adopt, modify, and repeal rules (~~and~~  
4 ~~regulations~~) governing safety and health standards for conditions of  
5 employment as authorized by this chapter after a public hearing in  
6 conformance with the administrative procedure act and (~~the provisions~~  
7 ~~of~~) this chapter. At least thirty days (~~prior to such~~) before a  
8 public hearing, the director shall cause public notice of (~~such~~) the  
9 hearing to be made in newspapers of general circulation in this state,  
10 of the date, time, and place of (~~such~~) the public hearing, along with  
11 a general description of the subject matter of the proposed rules and  
12 information as to where copies of any rules (~~and regulations~~)  
13 proposed for adoption may be obtained and with a solicitation for  
14 recommendations in writing or suggestions for inclusion or changes in  
15 (~~such~~) the rules to be submitted not later than five days (~~prior to~~  
16 ~~such~~) before the public hearing. (~~Any preexisting~~) Rules adopted by  
17 the department (~~of labor and industries~~) before the effective date of  
18 this section relating to health and safety standards in workplaces  
19 subject to the jurisdiction of the department (~~shall~~) remain  
20 effective (~~insofar as such~~) if the rules are not inconsistent with  
21 (~~the provisions of~~) this chapter.

22       **Sec. 35.** RCW 49.17.041 and 1995 c 371 s 2 are each amended to read  
23 as follows:

24       (1)(~~(a) Except as provided in (b) of this subsection, no rules~~  
25 ~~adopted under this chapter amending or establishing agricultural safety~~  
26 ~~standards shall take effect during the period beginning January 1,~~  
27 ~~1995, and ending January 15, 1996. This subsection applies, but is not~~  
28 ~~limited to applying, to a rule adopted before January 1, 1995, but with~~  
29 ~~an effective date which is during the period beginning January 1, 1995,~~  
30 ~~and ending January 15, 1996, and to provisions of rules adopted prior~~  
31 ~~to January 1, 1995, which provisions are to become effective during the~~  
32 ~~period beginning January 1, 1995, and ending January 15, 1996.~~

33       (~~b) Subsection (1)(a) of this section does not apply to:~~  
34 ~~Provisions of rules that were in effect before January 1, 1995;~~  
35 ~~emergency rules adopted under RCW 34.05.350; or revisions to chapter~~  
36 ~~296-306 WAC regarding rollover protective structures that were adopted~~

1 in 1994 and effective March 1, 1995, and that are additionally revised  
2 to refer to the variance process available under this chapter.

3 ~~(2))~~ The rules for agricultural safety adopted under this chapter  
4 must:

5 (a) Establish, for agricultural employers, an agriculture safety  
6 standard that includes agriculture-specific rules and specific  
7 references to the general industry safety standard adopted under this  
8 chapter (~~(49.17-RCW)~~); and

9 (b) Exempt agricultural employers from the general industry safety  
10 standard adopted under this chapter (~~(49.17-RCW)~~) for all rules not  
11 specifically referenced in the agriculture safety standard.

12 ~~((3))~~ (2) The department shall publish in one volume all of the  
13 occupational safety rules that apply to agricultural employers and  
14 shall make this volume available to all agricultural employers (~~before~~  
15 ~~January 15, 1996~~). This volume must be available in both English and  
16 Spanish.

17 ~~((4))~~ (3) The department shall provide training, education, and  
18 enhanced consultation services concerning its agricultural safety rules  
19 to agricultural employers before the rules' effective dates. (~~The~~  
20 ~~training, education, and consultation must continue throughout the~~  
21 ~~winter of 1995-1996.~~) Training and education programs must be  
22 provided throughout the state and must be coordinated with agricultural  
23 associations in order to meet their members' needs.

24 ~~((5))~~ (4) The department shall provide, for informational  
25 purposes, a list of commercially available rollover protective  
26 structures for tractors used in agricultural operations manufactured  
27 before October 25, 1976. The list must include the name and address of  
28 the manufacturer and the approximate price of the structure. Included  
29 with the list shall be a statement indicating that an employer may  
30 apply for a variance from the rules requiring rollover protective  
31 structures under this chapter and that variances may be granted in  
32 appropriate circumstances on a case-by-case basis. The statement shall  
33 also provide examples of circumstances under which a variance may be  
34 granted. The list and statement shall be generally available to the  
35 agricultural community before the department may take any action to  
36 enforce rules requiring rollover protective structures for tractors  
37 used in agricultural operations manufactured before October 25, 1976.

1       **Sec. 36.** RCW 49.17.050 and 1998 c 224 s 1 are each amended to read  
2 as follows:

3       In ~~((the adoption of))~~ adopting rules ~~((and regulations))~~ under  
4 ~~((the authority of))~~ this chapter, the director shall:

5       (1) Provide for the preparation, adoption, amendment, or repeal of  
6 rules ~~((and regulations))~~ of safety and health standards governing the  
7 conditions of employment of general and special application in all  
8 workplaces;

9       (2) Provide for the adoption of occupational health and safety  
10 standards ~~((which))~~ that are at least as effective as those adopted or  
11 recognized by the United States secretary of labor under the authority  
12 of the occupational safety and health act of 1970 ~~((Public Law))~~ P.L.  
13 91-596; 84 Stat. 1590);

14       (3) Provide a method of encouraging employers and employees in  
15 their efforts to reduce the number of safety and health hazards at  
16 their workplaces and to stimulate employers and employees to institute  
17 new and to perfect existing programs for providing safe and healthful  
18 working conditions;

19       (4) Provide for the ~~((promulgation))~~ adoption of health and safety  
20 standards and the control of conditions in all workplaces concerning  
21 gases, vapors, dust, or other airborne particles, toxic materials, or  
22 harmful physical agents ~~((which))~~ that shall set a standard ~~((which))~~  
23 that most adequately assures, to the extent feasible, on the basis of  
24 the best available evidence, that no employee will suffer material  
25 impairment of health or functional capacity even if such employee has  
26 regular exposure to the hazard dealt with by such standard for the  
27 period of his or her working life; any such standards shall require  
28 where appropriate the use of protective devices or equipment and for  
29 monitoring or measuring any such gases, vapors, dust, or other airborne  
30 particles, toxic materials, or harmful physical agents;

31       (5) Provide for appropriate reporting procedures by employers with  
32 respect to ~~((such))~~ information relating to conditions of employment  
33 ~~((which))~~ that will assist in achieving the objectives of this chapter;

34       (6) Provide for the frequency, method, and manner of the making of  
35 inspections of workplaces without advance notice; ~~((and,))~~

36       (7) Provide for the publication and dissemination to employers,  
37 employees, and labor organizations and the posting where appropriate by

1 employers of informational, education, or training materials calculated  
2 to aid and assist in achieving the objectives of this chapter;

3 (8) Provide for the establishment of new and the perfection and  
4 expansion of existing programs for occupational safety and health  
5 education for employers and employees, and, in addition institute  
6 methods and procedures for the establishment of a program for voluntary  
7 compliance solely through the use of advice and consultation with  
8 employers and employees with recommendations including recommendations  
9 of methods to abate violations relating to the requirements of this  
10 chapter and all applicable safety and health standards and rules (~~and~~  
11 ~~regulations promulgated pursuant to the authority of~~) adopted under  
12 this chapter;

13 (9) Provide for the adoption of safety and health standards  
14 requiring the use of safeguards in trenches and excavations and around  
15 openings of hoistways, hatchways, elevators, stairways, and similar  
16 openings;

17 (10) Provide for the (~~promulgation~~) adoption of health and safety  
18 standards requiring the use of safeguards for all vats, pans, trimmers,  
19 cut off, gang edger, and other saws, planers, presses, formers, cogs,  
20 gearing, belting, shafting, coupling, set screws, live rollers,  
21 conveyors, mangles in laundries, and machinery of similar description,  
22 which can be effectively guarded with due regard to the ordinary use of  
23 such machinery and appliances and the danger to employees therefrom,  
24 and with which the employees of any such workplace may come in contact  
25 while in the performance of their duties and prescribe methods,  
26 practices, or processes to be followed by employers (~~which~~) that will  
27 enhance the health and safety of employees in the performance of their  
28 duties when in proximity to machinery or appliances mentioned in this  
29 subsection; and

30 (11) Certify that no later than twenty business days (~~prior to~~)  
31 before the effective date of any significant legislative rule, as  
32 defined by RCW 34.05.328, a meeting of impacted parties is convened to:  
33 (a) Identify ambiguities and problem areas in the rule; (b) coordinate  
34 education and public relations efforts by all parties; (c) provide  
35 comments regarding internal department training and enforcement plans;  
36 and (d) provide comments regarding appropriate evaluation mechanisms to  
37 determine the effectiveness of the new rule. The meeting shall include  
38 a balanced representation of both business and labor from impacted

1 industries, department personnel responsible for the above subject  
2 areas, and other agencies or key stakeholder groups as determined by  
3 the department. An existing advisory committee may be utilized if  
4 appropriate.

5 **Sec. 37.** RCW 49.17.055 and 1997 c 107 s 1 are each amended to read  
6 as follows:

7 The director shall appoint a WISHA advisory committee composed of  
8 ten members: Four members representing subject workers, each of whom  
9 shall be appointed from a list of at least three names submitted by a  
10 recognized statewide organization of employees, representing a majority  
11 of employees; four members representing subject employers, each of whom  
12 shall be appointed from a list of at least three names submitted by a  
13 recognized statewide organization of employers, representing a majority  
14 of employers; and two ex officio members, without a vote, one of whom  
15 shall be the ((~~chairperson~~)) chair of the board of industrial insurance  
16 appeals, and the other representing the department. The member  
17 representing the department shall be ((~~chairperson~~)) chair. The  
18 committee shall provide comment on department rule making, policies,  
19 and other initiatives. The committee shall also conduct a continuing  
20 study of any aspect of safety and health the committee determines to  
21 require their consideration. The committee shall report its findings  
22 to the department or the board of industrial insurance appeals for  
23 action as ((~~deemed~~)) appropriate. The members of the committee shall  
24 be appointed for a term of three years commencing on July 1, 1997, and  
25 the terms of the members representing the workers and employers shall  
26 be staggered so that the director shall designate one member from each  
27 group initially appointed whose term ((~~shall~~)) expires ((~~on~~)) June 30,  
28 1998, and one member from each group whose term ((~~shall~~)) expires  
29 ((~~on~~)) June 30, 1999. The members shall serve without compensation,  
30 but are entitled to travel expenses as provided in RCW 43.03.050 and  
31 43.03.060. The committee may hire such experts, if any, as it requires  
32 to discharge its duties and may utilize such personnel and facilities  
33 of the department and board of industrial insurance appeals as it  
34 needs, without charge. All expenses of the committee must be paid by  
35 the department.

1       **Sec. 38.** RCW 49.17.060 and 1973 c 80 s 6 are each amended to read  
2 as follows:

3       Each employer:

4       (1) Shall furnish to each of his or her employees a place of  
5 employment free from recognized hazards that are causing or likely to  
6 cause serious injury or death to his or her employees(~~(+—PROVIDED,~~  
7 ~~That))~~). No citation or order assessing a penalty shall be issued to  
8 any employer solely under (~~(the authority of)~~) this subsection except  
9 where no applicable rule (~~(or regulation)~~) has been adopted by the  
10 department covering the unsafe or unhealthful condition of employment  
11 at the workplace; and

12       (2) Shall comply with the rules(~~(, regulations,)~~) and orders  
13 (~~(promulgated)~~) adopted under this chapter.

14       **Sec. 39.** RCW 49.17.070 and 2006 c 31 s 2 are each amended to read  
15 as follows:

16       (1) Subject to subsections (2) through (5) of this section, the  
17 director, or his or her authorized representative, in carrying out his  
18 or her duties under this chapter, upon the presentation of appropriate  
19 credentials to the owner, manager, operator, or on-site person in  
20 charge of the worksite, is authorized:

21       (a) To enter without delay and at all reasonable times the factory,  
22 plant, establishment, construction site, or other area, workplace, or  
23 environment where work is performed by an employee of an employer; and

24       (b) To inspect, survey, and investigate during regular working  
25 hours and at other reasonable times, and within reasonable limits and  
26 in a reasonable manner, any such workplace and all pertinent  
27 conditions, structures, machines, apparatus, devices, equipment, and  
28 materials therein, and to question privately any such employer, owner,  
29 operator, agent, or employee.

30       (2) In making inspections and (~~(making)~~) investigations under this  
31 chapter the director may require the attendance and testimony of  
32 witnesses and the production of evidence under oath. Witnesses shall  
33 be paid the same fees and mileage that are paid witnesses in the  
34 superior courts. In the case of contumacy, failure, or refusal of any  
35 person to obey (~~(such)~~) an order, any superior court within the  
36 jurisdiction of which (~~(such)~~) the person is found, or resides, or  
37 transacts business, upon the application of the director, (~~(shall~~

1 ~~have~~) has jurisdiction to issue (~~to such~~) the person an order  
2 requiring (~~such~~) the person to appear to produce evidence if, as, and  
3 when so ordered, and to give testimony relating to the matter under  
4 investigation or in question, and any failure to obey (~~such~~) the  
5 order of the court may be punished by (~~said~~) the court as a contempt  
6 thereof.

7 (3) Except as provided in subsection (4) of this section or RCW  
8 49.17.075, the director or his or her authorized representative shall  
9 obtain consent from the owner, manager, operator, or his or her on-site  
10 person in charge of the worksite when entering any worksite located on  
11 private property to carry out his or her duties under this chapter.  
12 Solely for the purpose of requesting the consent required by this  
13 section, the director or his or her authorized representative shall, in  
14 a safe manner, enter a worksite at an entry point designated by the  
15 employer or, in the event no entry point has been designated, at a  
16 reasonably recognizable entry point.

17 (4) This section does not prohibit the director or his or her  
18 authorized representative from taking action consistent with a  
19 recognized exception to the warrant requirements of the federal and  
20 state Constitutions.

21 (5) This section does not require advance notice of an inspection.

22 **Sec. 40.** RCW 49.17.080 and 1973 c 80 s 8 are each amended to read  
23 as follows:

24 (1) Any employer may apply to the director for a temporary order  
25 granting a variance from any safety and health standard (~~promulgated~~)  
26 adopted by rule (~~or regulation~~) under (~~the authority of~~) this  
27 chapter. (~~Such~~) The temporary order shall be granted only if the  
28 employer files an application (~~which~~) that meets the requirements of  
29 subsection (2) of this section and establishes that the employer (a) is  
30 unable to comply with a safety or health standard because of the  
31 unavailability of professional or technical personnel, or of materials  
32 and equipment needed to come into compliance with the safety and health  
33 standard, or because necessary construction or alteration of facilities  
34 cannot be completed by the effective date of such safety and health  
35 standard(~~, that he~~); (b) is taking all available steps to safeguard  
36 his or her employees against the hazards covered by the safety and  
37 health standard(~~, and he~~); and (c) has an effective program for

1 coming into compliance with such safety and health standard as quickly  
2 as practicable. Any temporary order issued under the authority of this  
3 subsection shall prescribe the practices, means, methods, operations,  
4 and processes (~~(which)~~) that the employer must adopt and use while the  
5 order is in effect and state in detail his or her program for coming  
6 into compliance with the safety and health standard. Such a temporary  
7 order may be granted only after notice to employees and an opportunity  
8 for a hearing upon request of the employer or any affected employee.  
9 The name of any affected employee requesting a hearing under (~~the~~  
10 ~~provisions of~~) this subsection (~~(shall be)~~) is confidential and shall  
11 not be disclosed without the consent of (~~(such)~~) the employee. The  
12 director may issue one interim order to be effective until a  
13 determination is made or a decision rendered if a hearing is demanded.  
14 No temporary order may be in effect for longer than the period needed  
15 by the employer to achieve compliance with the standard, or one year,  
16 whichever is shorter, except that such an order may be renewed not more  
17 than twice, so long as the requirements of this subsection are met and  
18 if an application for renewal is filed at least ninety days (~~(prior~~  
19 ~~to)~~) before the expiration date of the order. No renewal of a  
20 temporary order may remain in effect for longer than one hundred eighty  
21 days.

22 (2) An application for a temporary order under this section shall  
23 contain:

24 (a) A specification of the safety and health standard or portion  
25 thereof from which the employer seeks a variance;

26 (b) A representation by the employer, supported by representations  
27 from qualified persons having first hand knowledge of the facts  
28 represented, that he or she is unable to comply with the safety and  
29 health standard or portion thereof and a detailed statement of the  
30 reasons therefor;

31 (c) A statement of the steps the employer has taken and will take,  
32 with specific dates, to protect employees against the hazard covered by  
33 the standard;

34 (d) A statement as to when the employer expects to be able to  
35 comply with the standard or portion thereof and what steps he or she  
36 has taken and will take, with dates specified, to come into compliance  
37 with the standard; and

1 (e) A certification that the employer, by the date of mailing or  
2 delivery of the application to the director, has informed his or her  
3 employees of the application by providing a copy thereof to his or her  
4 employees or their authorized representative by posting a copy of  
5 (~~such~~) the application in a place or places reasonably accessible to  
6 all employees or by other appropriate means of notification and by  
7 mailing a copy to the authorized representative of (~~such~~) the  
8 employees(~~(+)~~). The application shall set forth the manner in which  
9 the employees have been so informed. The application shall also advise  
10 employees and their employee representatives of their right to apply to  
11 the director to conduct a hearing upon the application for a variance.

12 **Sec. 41.** RCW 49.17.090 and 1973 c 80 s 9 are each amended to read  
13 as follows:

14 Any employer may apply to the director for an order for a variance  
15 from any rule (~~(or regulation)~~) establishing a safety and health  
16 standard (~~(promulgated)~~) adopted under this chapter. Affected  
17 employees shall be given notice of each (~~such~~) application and, in  
18 the manner prescribed by RCW 49.17.080, shall be informed of their  
19 right to request a hearing on any (~~such~~) application. The director  
20 shall issue (~~such~~) an order granting a variance, after opportunity  
21 for an inspection, if he or she determines or decides after a hearing  
22 has been held, if request for hearing has been made, that the applicant  
23 for the variance has demonstrated by a preponderance of the evidence  
24 that the conditions, practices, means, methods, operations, or  
25 processes used or proposed to be used by (~~such~~) the applicant  
26 employer will provide employment and places of employment to his or her  
27 employees (~~(which)~~) that are as safe and healthful as those (~~(which)~~)  
28 that would prevail if he or she complied with the safety and health  
29 standard or standards from which the variance is sought. The order so  
30 issued shall prescribe the conditions the employer must maintain, and  
31 the practices, means, methods, operations, and processes (~~(which)~~) that  
32 he or she must adopt and utilize to the extent they differ from the  
33 standard in question. At any time after six months has elapsed from  
34 the date of the issuance of the order granting a variance (~~(upon~~  
35 ~~application of)~~), an employer, employee, or the director on his or her  
36 own motion, may apply to the director to modify or revoke the order for  
37 a variance. The director may, after notice has been given in the

1 manner prescribed for the issuance of ~~((such))~~ the order ~~((may))~~,  
2 modify or revoke the order granting the variance from any standard  
3 ~~((promulgated))~~ adopted under ~~((the authority of))~~ this chapter.

4 **Sec. 42.** RCW 49.17.100 and 1986 c 192 s 1 are each amended to read  
5 as follows:

6 A representative of the employer and an employee representative  
7 authorized by the employees of ~~((such))~~ the employer ~~((shall be given  
8 an opportunity to))~~ may accompany the director, or his or her  
9 authorized representative, during the physical inspection of any  
10 workplace for the purpose of aiding ~~((such))~~ the inspection. Where  
11 there is no authorized employee representative, the director or his or  
12 her authorized representative shall consult with a reasonable number of  
13 employees concerning matters of health and safety in the workplace.  
14 The director may adopt procedural rules ~~((and regulations))~~ to  
15 implement ~~((the provisions of))~~ this section ~~((: PROVIDED, That))~~.  
16 Neither this section, nor any other provision of this chapter, ~~((shall  
17 be construed to))~~ interferes with, impedes, or in any way diminishes  
18 the right of employees to bargain collectively with their employers  
19 through representatives of their own choosing concerning wages or  
20 standards or conditions of employment ~~((which))~~ that equal or exceed  
21 those established under ~~((the authority of))~~ this chapter.

22 **Sec. 43.** RCW 49.17.110 and 1973 c 80 s 11 are each amended to read  
23 as follows:

24 Each employee shall comply with ~~((the provisions of))~~ this chapter  
25 and all rules ~~((, regulations,))~~ and orders issued ~~((pursuant to the  
26 authority of))~~ under this chapter ~~((which))~~ that are applicable to his  
27 or her own actions and conduct in the course of his or her employment.  
28 Any employee or representative of employees who in good faith believes  
29 that a violation of a safety or health standard, ~~((promulgated))~~  
30 adopted by rule under ~~((the authority of))~~ this chapter, exists that  
31 threatens physical harm to employees, or that an imminent danger to  
32 ~~((such))~~ the employees exists, may request an inspection of the  
33 workplace by giving notice to the director or his or her authorized  
34 representative of ~~((such))~~ the violation or danger. ~~((Any such))~~ The  
35 notice shall be ~~((reduced to))~~ in writing, shall set forth with  
36 reasonable particularity the grounds for the notice, and shall be

1 signed by the employee or representative of employees. A copy of the  
2 notice shall be provided the employer or his or her agent no later than  
3 at the time of inspection, except that, upon the request of the person  
4 giving ~~((such))~~ the notice, his or her name and the names of individual  
5 employees referred to ~~((therein))~~ in the notice shall not appear in  
6 ~~((such))~~ the copy or on any record published, released, or made  
7 available ~~((pursuant to any provision of))~~ under this chapter. If upon  
8 receipt of ~~((such))~~ the notification the director determines that there  
9 are reasonable grounds to believe that ~~((such))~~ a violation or danger  
10 exists, he or she shall make a special inspection as soon as  
11 practicable, to determine if ~~((such))~~ the violation or danger exists.  
12 If the director determines there are no reasonable grounds to believe  
13 that a violation or danger exists, he or she shall notify the employer  
14 and the employee or representative of the employees in writing of  
15 ~~((such))~~ the determination.

16 ~~((Prior to))~~ Before or during any inspection of a workplace, any  
17 employee or representative of employees employed in ~~((such))~~ the  
18 workplace may notify the director or any representative of the director  
19 responsible for conducting the inspection, in writing, of any violation  
20 of this chapter ~~((which))~~ that he or she has reason to believe exists  
21 in such workplace. The director shall, by rule, establish procedures  
22 for informal review of any refusal by a representative of the director  
23 to issue a citation with respect to any ~~((such))~~ alleged violation, and  
24 shall furnish the employee or representative of employees requesting  
25 ~~((such))~~ review a written statement of the reasons for the director's  
26 final disposition of the case.

27 **Sec. 44.** RCW 49.17.120 and 1999 c 93 s 1 are each amended to read  
28 as follows:

29 (1) If upon inspection or investigation the director or his or her  
30 authorized representative believes that an employer has violated a  
31 requirement of RCW 49.17.060, or any safety or health standard  
32 ~~((promulgated by rule))~~ adopted by the director in rule, or the  
33 conditions of any order granting a variance ~~((pursuant to))~~ under this  
34 chapter, the director shall with reasonable promptness issue a citation  
35 to the employer. Each citation shall be in writing and shall describe  
36 with particularity the nature of the violation, including a reference

1 to the provisions of the statute, standard, rule, regulation, or order  
2 alleged to have been violated. In addition, the citation shall fix a  
3 reasonable time for the abatement of the violation.

4 (2) The director may prescribe procedures for the issuance of a  
5 notice in lieu of a citation with respect to de minimis violations  
6 (~~which~~) that have no direct or immediate relationship to safety or  
7 health.

8 (3) Each citation, or a copy or copies thereof, issued under the  
9 authority of this section and RCW 49.17.130 shall be prominently  
10 posted, at or near each place a violation referred to in the citation  
11 occurred or as may otherwise be prescribed in (~~regulations~~) rules  
12 issued by the director. The director shall provide by rule for  
13 procedures to be followed by an employee representative upon written  
14 application to receive copies of citations and notices issued to any  
15 employer having employees who are represented by (~~such~~) the employee  
16 representative. (~~Such~~) The rule may prescribe the form of (~~such~~)  
17 the application, the time for renewal of applications, and the  
18 eligibility of the applicant to receive copies of citations and  
19 notices.

20 (4) No citation may be issued under this section or RCW 49.17.130  
21 after the expiration of six months following a compliance inspection,  
22 investigation, or survey revealing any (~~such~~) violation.

23 (5)(a) No citation may be issued under this section if there is  
24 unpreventable employee misconduct that led to the violation, but the  
25 employer must show the existence of:

26 (i) A thorough safety program, including work rules, training, and  
27 equipment designed to prevent the violation;

28 (ii) Adequate communication of these rules to employees;

29 (iii) Steps to discover and correct violations of its safety rules;

30 and

31 (iv) Effective enforcement of its safety program as written in  
32 practice and not just in theory.

33 (b) This subsection (5) does not eliminate or modify any other  
34 defenses that may exist to a citation.

35 **Sec. 45.** RCW 49.17.130 and 1973 c 80 s 13 are each amended to read  
36 as follows:

37 (1) If upon inspection or investigation, the director, or his or

1 her authorized representative, believes that an employer has violated  
2 a requirement of RCW 49.17.060, or any safety or health standard  
3 (~~promulgated~~) adopted by rule(~~s~~) of the department, or any  
4 conditions of an order granting a variance, which violation is such  
5 that a danger exists from which there is a substantial probability that  
6 death or serious physical harm could result to any employee, the  
7 director or his or her authorized representative shall issue a citation  
8 and may issue an order immediately restraining (~~any such~~) the  
9 condition, practice, method, process, or means in the workplace. Any  
10 order issued under this section may require (~~such~~) steps to be taken  
11 as may be necessary to avoid, correct, or remove (~~such~~) the danger  
12 and prohibit the employment or presence of any individual in locations  
13 or under conditions where (~~such~~) the danger exists, except  
14 individuals whose presence is necessary to avoid, correct, or remove  
15 (~~such~~) the danger or to maintain the capacity of a continuous process  
16 operation in order that the resumption of normal operations may be had  
17 without a complete cessation of operations, or where a cessation of  
18 operations is necessary, to permit such to be accomplished in a safe  
19 and orderly manner. In addition, if any machine or equipment, or any  
20 part thereof, is in violation of a requirement of RCW 49.17.060 or any  
21 safety or health standard (~~promulgated~~) adopted by rule(~~s~~) of the  
22 department, and the operation of (~~such~~) the machine or equipment  
23 gives rise to a substantial probability that death or serious physical  
24 harm could result to any employee, and an order of immediate restraint  
25 of the use of (~~such~~) the machine or equipment has been issued under  
26 this subsection, the use of (~~such~~) the machine or equipment is  
27 prohibited, and a notice to that effect shall be attached thereto by  
28 the director or his or her authorized representative.

29 (2) Whenever the director, or his or her authorized representative,  
30 concludes that a condition of employment described in subsection (1) of  
31 this section exists in any workplace, he or she shall promptly inform  
32 the affected employees and employers of the danger.

33 (3) At any time that a citation or a citation and order restraining  
34 any condition of employment or practice described in subsection (1) of  
35 this section is issued by the director, or his or her authorized  
36 representative, he or she may in addition request the attorney general  
37 to make an application to the superior court of the county (~~wherein~~

1 ~~such~~) where the condition of employment or practice exists for a  
2 temporary restraining order or (~~such~~) other appropriate relief (~~as~~  
3 ~~appears to be appropriate under the circumstances~~)).

4 **Sec. 46.** RCW 49.17.140 and 1994 c 61 s 1 are each amended to read  
5 as follows:

6 (1) If after an inspection or investigation the director or the  
7 director's authorized representative issues a citation under (~~the~~  
8 ~~authority of~~) RCW 49.17.120 or 49.17.130, the department, within a  
9 reasonable time after the termination of (~~such~~) the inspection or  
10 investigation, shall notify the employer by certified mail of the  
11 penalty to be assessed under (~~the authority of~~) RCW 49.17.180 and  
12 shall state that the employer has fifteen working days within which to  
13 notify the director that the employer wishes to appeal the citation or  
14 assessment of penalty. If, within fifteen working days from the  
15 communication of the notice issued by the director the employer fails  
16 to notify the director that the employer intends to appeal the citation  
17 or assessment penalty, and no notice is filed by any employee or  
18 representative of employees under subsection (3) of this section within  
19 such time, the citation and the assessment shall be deemed a final  
20 order of the department and not subject to review by any court or  
21 agency.

22 (2) If the director has reason to believe that an employer has  
23 failed to correct a violation for which a citation has been issued  
24 within the period permitted in the citation for its correction, which  
25 period shall not begin to run until the entry of a final order in the  
26 case of any appeal proceedings under this section initiated by the  
27 employer in good faith and not solely for delay or avoidance of  
28 penalties, the director shall notify the employer by certified mail of  
29 such failure to correct the violation and of the penalty to be assessed  
30 under RCW 49.17.180 by reason of (~~such~~) the failure, and shall state  
31 that the employer has fifteen working days from the communication of  
32 (~~such~~) the notification and assessment of penalty to notify the  
33 director that the employer wishes to appeal the director's notification  
34 of the assessment of penalty. If, within fifteen working days from the  
35 receipt of notification issued by the director the employer fails to  
36 notify the director that the employer intends to appeal the

1 notification of assessment of penalty, the notification and assessment  
2 of penalty shall be deemed a final order of the department and not  
3 subject to review by any court or agency.

4 (3)(a) If any employer notifies the director that the employer  
5 intends to appeal the citation issued under (~~either~~) RCW 49.17.120 or  
6 49.17.130 or notification of the assessment of a penalty issued under  
7 subsection(~~s~~) (1) or (2) of this section, or if, within fifteen  
8 working days from the issuance of a citation under (~~either~~) RCW  
9 49.17.120 or 49.17.130 any employee or representative of employees  
10 files a notice with the director alleging that the period of time fixed  
11 in the citation for the abatement of the violation is unreasonable, the  
12 director may reassume jurisdiction over the entire matter, or any  
13 portion thereof upon which notice of intention to appeal has been filed  
14 with the director (~~pursuant to~~) under this subsection. If the  
15 director reassumes jurisdiction of all or any portion of the matter  
16 upon which notice of appeal has been filed with the director, any  
17 redetermination shall be completed and corrective notices of assessment  
18 of penalty, citations, or revised periods of abatement completed within  
19 a period of thirty working days. The thirty-working-day  
20 redetermination period may be extended up to fifteen additional working  
21 days upon agreement of all parties to the appeal. The redetermination  
22 (~~shall then~~) becomes final subject to direct appeal to the board of  
23 industrial insurance appeals within fifteen working days of (~~such~~)  
24 the redetermination with service of notice of appeal upon the director.  
25 (~~In the event that~~) If the director does not reassume jurisdiction  
26 (~~as provided in~~) under this subsection, the director shall promptly  
27 notify the state board of industrial insurance appeals of all  
28 notifications of intention to appeal any such citations, any such  
29 notices of assessment of penalty and any employee or representative of  
30 employees notice of intention to appeal the period of time fixed for  
31 abatement of a violation and in addition certify a full copy of the  
32 record in such appeal matters to the board. The director shall adopt  
33 rules of procedure for the reassumption of jurisdiction under this  
34 subsection affording employers, employees, and employee representatives  
35 notice of the reassumption of jurisdiction by the director, and an  
36 opportunity to object or support the reassumption of jurisdiction,  
37 either in writing or orally at an informal conference to be held  
38 (~~prior to~~) before the expiration of the redetermination period. A

1 notice of appeal filed under this section shall stay the effectiveness  
2 of any citation or notice of the assessment of a penalty pending review  
3 by the board of industrial insurance appeals, but ~~((such))~~ the appeal  
4 shall not stay the effectiveness of any order of immediate restraint  
5 issued by the director under ~~((the authority of))~~ RCW 49.17.130. The  
6 board of industrial insurance appeals shall afford an opportunity for  
7 a hearing in the case of each ~~((such))~~ appellant and the department  
8 shall be represented in ~~((such))~~ the hearing by the attorney general  
9 ~~((and)).~~ The board shall ~~((in addition))~~ provide affected employees or  
10 authorized representatives of affected employees an opportunity to  
11 participate as parties to hearings under this subsection. The board  
12 shall thereafter make disposition of the issues in accordance with  
13 procedures relative to contested cases appealed to the state board of  
14 industrial insurance appeals.

15 (b) Upon application by an employer showing that a good faith  
16 effort to comply with the abatement requirements of a citation has been  
17 made and that the abatement has not been completed because of factors  
18 beyond the employer's control, the director after affording an  
19 opportunity for a hearing shall issue an order affirming or modifying  
20 the abatement requirements in ~~((such))~~ the citation.

21 **Sec. 47.** RCW 49.17.150 and 1982 c 109 s 1 are each amended to read  
22 as follows:

23 (1) Any person aggrieved by an order of the board of industrial  
24 insurance appeals issued under RCW 49.17.140(3) may obtain a review of  
25 ~~((such))~~ the order in the superior court for the county in which the  
26 violation is alleged to have occurred, by filing in ~~((such))~~ the court  
27 within thirty days following the communication of the board's order or  
28 denial of any petition or petitions for review, a written notice of  
29 appeal praying that the order be modified or set aside. ~~((Such))~~ The  
30 appeal shall be perfected by filing with the clerk of the court and by  
31 serving a copy thereof by mail, or personally, on the director and on  
32 the board. The board shall ~~((thereupon))~~ transmit a copy of the notice  
33 of appeal to all parties who participated in proceedings before the  
34 board, and shall file in the court the complete record of the  
35 proceedings. Upon ~~((such))~~ filing, the court ~~((shall have))~~ has  
36 jurisdiction of the proceeding and of the question determined therein,  
37 and ~~((shall have power to))~~ may grant such temporary relief or

1 restraining order as it deems just and proper, and ~~((to))~~ may make and  
2 enter upon the pleadings and the record of proceedings a decree  
3 affirming, modifying, or setting aside in all or in part, the decision  
4 of the board of industrial insurance appeals and enforcing the same to  
5 the extent that ~~((such))~~ the order is affirmed or modified. The  
6 commencement of appellate proceedings under this subsection shall not,  
7 unless ordered by the court, operate as a stay of the order of the  
8 board of industrial insurance appeals. No objection that has not been  
9 urged before the board shall be considered by the court, unless the  
10 failure or neglect to urge ~~((such))~~ the objection shall be excused  
11 because of extraordinary circumstances. The findings of the board or  
12 hearing examiner where the board has denied a petition or petitions for  
13 review with respect to questions of fact, if supported by substantial  
14 evidence on the record considered as a whole, shall be conclusive. If  
15 any party ~~((shall apply))~~ applies to the court for leave to adduce  
16 additional evidence and ~~((shall))~~ shows to the satisfaction of the  
17 court that ~~((such))~~ the additional evidence is material and that there  
18 were reasonable grounds for the failure to adduce ~~((such))~~ the evidence  
19 in the hearing before the board, the court may order ~~((such))~~ the  
20 additional evidence to be taken before the board and to be made a part  
21 of the record. The board may modify its findings as to the facts, or  
22 make new findings, by reason of additional evidence so taken and filed,  
23 and it shall file ~~((such))~~ the modified or new findings, which findings  
24 with respect to questions of fact are supported by substantial evidence  
25 on the record considered as a whole, shall be conclusive, and its  
26 recommendations, if any, for the modification or setting aside of its  
27 original order. Upon the filing of the record with it, the  
28 jurisdiction of the court shall be exclusive and the judgment and  
29 decree shall be final, except as the same shall be subject to review by  
30 the supreme court. Appeals filed under this subsection shall be heard  
31 expeditiously.

32 (2) The director may also obtain review or enforcement of any final  
33 order of the board by filing a petition for ~~((such))~~ relief in the  
34 superior court for the county in which the alleged violation occurred.  
35 The provisions of subsection (1) of this section ~~((shall))~~ govern  
36 ~~((such))~~ these proceedings to the extent applicable. If a notice of  
37 appeal, as provided in subsection (1) of this section, is not filed  
38 within thirty days after service of the board's order, the board's

1 findings of fact, decision, and order or the examiner's findings of  
2 fact, decision, and order when a petition or petitions for review have  
3 been denied shall be conclusive in connection with any petition for  
4 enforcement ~~((which))~~ that is filed by the director after the  
5 expiration of ~~((such))~~ the thirty-day period. In any such case, as  
6 well as in the case of an unappealed citation or a notification of the  
7 assessment of a penalty by the director, which has become a final order  
8 under ~~((subsection (1) or (2) of))~~ RCW 49.17.140 (1) or (2) upon  
9 application of the director, the clerk of the court, unless otherwise  
10 ordered by the court, shall forthwith enter a decree enforcing the  
11 citation and notice of assessment of penalty and shall transmit a copy  
12 of ~~((such))~~ the decree to the director and the employer named in the  
13 director's petition. In any contempt proceeding brought to enforce a  
14 decree of the superior court entered ~~((pursuant to))~~ under this  
15 ~~((subsection or subsection (1) of this))~~ section, the superior court  
16 may assess the penalties provided in RCW 49.17.180, in addition to  
17 invoking any other available remedies.

18 **Sec. 48.** RCW 49.17.160 and 1973 c 80 s 16 are each amended to read  
19 as follows:

20 (1) No person shall discharge or in any manner discriminate against  
21 any employee because ~~((such))~~ the employee has filed any complaint or  
22 instituted or caused to be instituted any proceeding under or related  
23 to this chapter, or has testified or is about to testify in any such  
24 proceeding or because of the exercise by ~~((such))~~ the employee on  
25 behalf of himself, herself, or others of any right afforded by this  
26 chapter.

27 (2) Any employee who believes that he or she has been discharged or  
28 otherwise discriminated against by any person in violation of this  
29 section may, within thirty days after ~~((such))~~ the violation occurs,  
30 file a complaint with the director alleging ~~((such))~~ discrimination.  
31 Upon receipt of ~~((such))~~ the complaint, the director shall ~~((cause such~~  
32 ~~investigation to be made))~~ investigate as he or she deems appropriate.  
33 If upon ~~((such))~~ investigation, the director determines that ~~((the~~  
34 ~~provisions of))~~ this section ~~((have))~~ has been violated, he or she  
35 shall bring an action in the superior court of the county where ~~((in))~~  
36 the violation is alleged to have occurred against the person or persons  
37 who ~~((is))~~ are alleged to have violated ~~((the provisions of))~~ this

1 section. If the director determines that (~~the provisions of~~) this  
2 section (~~have~~) has not been violated, the employee may institute the  
3 action on his or her own behalf within thirty days of (~~such~~) the  
4 determination. In any such action the superior court (~~shall have~~)  
5 has jurisdiction, for cause shown, to restrain violations of subsection  
6 (1) of this section and order all appropriate relief including rehiring  
7 or reinstatement of the employee to his or her former position with  
8 back pay.

9 (3) Within ninety days of the receipt of the complaint filed under  
10 this section, the director shall notify the complainant of his or her  
11 determination under subsection (2) of this section.

12 **Sec. 49.** RCW 49.17.170 and 1973 c 80 s 17 are each amended to read  
13 as follows:

14 (1) In addition to and after having invoked the powers of restraint  
15 vested in the director as provided in RCW 49.17.130 the superior courts  
16 of the state of Washington (~~shall~~) have jurisdiction upon petition of  
17 the director, through the attorney general, to enjoin any condition or  
18 practice in any workplace from which there is a substantial probability  
19 that death or serious physical harm could result to any employee  
20 immediately or before the imminence of such danger can be eliminated  
21 through the enforcement procedures otherwise provided by this chapter.  
22 Any order issued under this section may require such steps to be taken  
23 as may be necessary to avoid, correct, or remove (~~such~~) the danger  
24 and prohibit the employment or presence of any individual in locations  
25 or under conditions where (~~such~~) the danger exists, except  
26 individuals whose presence is necessary to avoid, correct, or remove  
27 (~~such~~) the danger or to maintain the capacity of a continuous process  
28 operation to resume normal operation without a complete cessation of  
29 operations, or where a cessation of operations is necessary, to permit  
30 such to be accomplished in a safe and orderly manner.

31 (2) Upon the filing of any such petition the superior courts of the  
32 state of Washington (~~shall~~) have jurisdiction to grant (~~such~~)  
33 injunctive relief or a temporary restraining order pending the outcome  
34 of enforcement proceedings (~~pursuant to~~) under this chapter, except  
35 that no temporary restraining order issued without notice shall be  
36 effective for a period longer than five working days.

1 (3) Whenever and as soon as any authorized representative of the  
2 director concludes that a condition or practice described in subsection  
3 (1) exists in any workplace, he or she shall inform the affected  
4 employees and employers of the danger and may recommend to the director  
5 that relief be sought under this section.

6 (4) If the director arbitrarily or capriciously fails to invoke his  
7 or her restraining authority under RCW 49.17.130 or fails to seek  
8 relief under this section, any employee who may be injured by reason of  
9 ((~~such~~)) the failure, or the representative of ((~~such~~)) the employees,  
10 may bring an action against the director in the superior court for the  
11 county in which the danger is alleged to exist for a writ of mandamus  
12 to compel the director to seek such an order and for ((~~such~~)) further  
13 relief as may be appropriate or seek the director to exercise his or  
14 her restraining authority under RCW 49.17.130.

15 **Sec. 50.** RCW 49.17.180 and 1995 c 403 s 629 are each amended to  
16 read as follows:

17 (1) Except as provided in RCW 43.05.090, any employer who willfully  
18 or repeatedly violates the requirements of RCW 49.17.060, of any safety  
19 or health standard ((~~promulgated under the authority of~~)) adopted under  
20 this chapter, of any existing rule ((~~or regulation~~)) governing the  
21 conditions of employment ((~~promulgated~~)) adopted by the department, or  
22 of any order issued granting a variance under RCW 49.17.080 or  
23 49.17.090 may be assessed a civil penalty not to exceed seventy  
24 thousand dollars for each violation. A minimum penalty of five  
25 thousand dollars shall be assessed for a willful violation.

26 (2) Any employer who has received a citation for a serious  
27 violation of the requirements of RCW 49.17.060, of any safety or health  
28 standard ((~~promulgated under the authority of~~)) adopted under this  
29 chapter, of any existing rule ((~~or regulation~~)) governing the  
30 conditions of employment ((~~promulgated~~)) adopted by the department, or  
31 of any order issued granting a variance under RCW 49.17.080 or  
32 49.17.090 as determined in accordance with subsection (6) of this  
33 section, shall be assessed a civil penalty not to exceed seven thousand  
34 dollars for each ((~~such~~)) violation.

35 (3) Any employer who has received a citation for a violation of the  
36 requirements of RCW 49.17.060, of any safety or health standard  
37 ((~~promulgated~~)) adopted under this chapter, of any existing rule ((~~or~~

1 ~~regulation~~) governing the conditions of employment (~~promulgated~~)  
2 adopted by the department, or of any order issued granting a variance  
3 under RCW 49.17.080 or 49.17.090, where (~~such~~) the violation is  
4 specifically determined not to be of a serious nature as provided in  
5 subsection (6) of this section, may be assessed a civil penalty not to  
6 exceed seven thousand dollars for each (~~such~~) violation, unless  
7 (~~such~~) the violation is determined to be de minimis.

8 (4) Any employer who fails to correct a violation for which a  
9 citation has been issued under RCW 49.17.120 or 49.17.130 within the  
10 period permitted for its correction, which period shall not begin to  
11 run until the date of the final order of the board of industrial  
12 insurance appeals in the case of any review proceedings under this  
13 chapter initiated by the employer in good faith and not solely for  
14 delay or avoidance of penalties, may be assessed a civil penalty of not  
15 more than seven thousand dollars for each day during which (~~such~~) the  
16 failure or violation continues.

17 (5) Any employer who violates any of the posting requirements of  
18 this chapter, or any of the posting requirements of rules  
19 (~~promulgated~~) adopted by the department (~~pursuant to~~) under this  
20 chapter related to employee or employee representative's rights to  
21 notice, including but not limited to those employee rights to notice  
22 set forth in RCW 49.17.080, 49.17.090, 49.17.120, 49.17.130,  
23 49.17.220(1) and 49.17.240(2), shall be assessed a penalty not to  
24 exceed seven thousand dollars for each (~~such~~) violation. Any  
25 employer who violates any of the posting requirements for the posting  
26 of informational, educational, or training materials under the  
27 authority of RCW 49.17.050(7), may be assessed a penalty not to exceed  
28 seven thousand dollars for each (~~such~~) violation.

29 (6) For the purposes of this section, a serious violation (~~shall~~  
30 ~~be deemed to~~) exists in a workplace if there is a substantial  
31 probability that death or serious physical harm could result from a  
32 condition (~~which~~) that exists, or from one or more practices, means,  
33 methods, operations, or processes (~~which~~) that have been adopted or  
34 are in use in (~~such~~) the workplace, unless the employer did not, and  
35 could not with the exercise of reasonable diligence, know of the  
36 presence of the violation.

37 (7) The director, or his or her authorized representatives, (~~shall~~  
38 ~~have authority to~~) may assess all civil penalties provided in this

1 section, giving due consideration to the appropriateness of the penalty  
2 with respect to the number of affected employees of the employer being  
3 charged, the gravity of the violation, the size of the employer's  
4 business, the good faith of the employer, and the history of previous  
5 violations.

6 (8) Civil penalties imposed under this chapter shall be paid to the  
7 director for deposit in the supplemental pension fund established by  
8 RCW 51.44.033. Civil penalties may be recovered in a civil action in  
9 the name of the department brought in the superior court of the county  
10 where the violation is alleged to have occurred, or the department may  
11 ~~((utilize))~~ use the procedures for collection of civil penalties ~~((as))~~  
12 set forth in RCW 51.48.120 through 51.48.150.

13 **Sec. 51.** RCW 49.17.190 and 1986 c 20 s 3 are each amended to read  
14 as follows:

15 (1) Any person who gives advance notice of any inspection to be  
16 conducted under ~~((the authority of))~~ this chapter, without the consent  
17 of the director or his or her authorized representative, ~~((shall, upon~~  
18 ~~conviction be))~~ is guilty of a gross misdemeanor ~~((and be punished))~~  
19 punishable by a fine of not more than one thousand dollars or by  
20 imprisonment for not more than six months, or by both.

21 (2) Whoever knowingly makes any false statement, representation, or  
22 certification in any application, record, report, plan, or other  
23 document filed or required to be maintained ~~((pursuant to))~~ under this  
24 chapter ~~((shall, upon conviction be))~~ is guilty of a gross misdemeanor  
25 ~~((and be punished))~~ punishable by a fine of not more than ten thousand  
26 dollars, or by imprisonment for not more than six months, or by both.

27 (3) Any employer who willfully and knowingly violates the  
28 requirements of RCW 49.17.060, any safety or health standard  
29 ~~((promulgated))~~ adopted under this chapter, any existing rule ~~((or~~  
30 ~~regulation))~~ governing the safety or health conditions of employment  
31 and adopted by the director, or any order issued granting a variance  
32 under RCW 49.17.080 or 49.17.090 and that violation caused death to any  
33 employee ~~((shall, upon conviction be))~~ is guilty of a gross misdemeanor  
34 ~~((and be punished))~~ punishable by a fine of not more than one hundred  
35 thousand dollars or by imprisonment for not more than six months, or by  
36 both ~~((; except, that))~~. However, if the conviction is for a violation

1 committed after a first conviction of (~~such~~) the person, punishment  
2 shall be a fine of not more than two hundred thousand dollars or by  
3 imprisonment for not more than one year, or by both.

4 (4) Any employer who has been issued an order immediately  
5 restraining a condition, practice, method, process, or means in the  
6 workplace, (~~pursuant to~~) under RCW 49.17.130 or 49.17.170, and who  
7 nevertheless continues (~~such~~) the condition, practice, method,  
8 process, or means, or who continues to use a machine or equipment or  
9 part thereof to which a notice prohibiting (~~such~~) the use has been  
10 attached, (~~shall be~~) is guilty of a gross misdemeanor (~~, and upon~~  
11 ~~conviction shall be punished~~) punishable by a fine of not more than  
12 ten thousand dollars or by imprisonment for not more than six months,  
13 or by both.

14 (5) Any employer who (~~shall~~) knowingly removes, displaces,  
15 damages, or destroys, or causes to be removed, displaced, damaged, or  
16 destroyed, any safety device or safeguard required to be present and  
17 maintained by any safety or health standard, rule, or order  
18 (~~promulgated pursuant to~~) adopted under this chapter, or (~~pursuant~~  
19 ~~to~~) under the authority vested in the director under RCW 43.22.050  
20 (~~shall, upon conviction, be~~) is guilty of a misdemeanor (~~and be~~  
21 ~~punished~~) punishable by a fine of not more than one thousand dollars  
22 or by imprisonment for not more than ninety days, or by both.

23 (6) Whenever the director has reasonable cause to believe that any  
24 provision of this section defining a crime has been violated by an  
25 employer, the director shall cause a record of (~~such~~) the alleged  
26 violation to be prepared, a copy of which shall be referred to the  
27 prosecuting attorney of the county (~~wherein such~~) where the alleged  
28 violation occurred, and the prosecuting attorney of (~~such~~) the county  
29 shall in writing advise the director of the disposition he (~~shall~~) or  
30 she makes of the alleged violation.

31 **Sec. 52.** RCW 49.17.200 and 1973 c 80 s 20 are each amended to read  
32 as follows:

33 All information reported to or otherwise obtained by the director,  
34 or (~~his~~) the director's authorized representative, in connection with  
35 any inspection or proceeding under (~~the authority of~~) this chapter,  
36 (~~which~~) that contains or (~~which~~) that might reveal a trade secret  
37 (~~shall be considered~~) is confidential, except that (~~such~~) this

1 information may be disclosed to other officers or employees concerned  
2 with carrying out this chapter, or when relevant in any proceeding  
3 under this chapter. In any such proceeding the director, the board of  
4 industrial insurance appeals, or the court shall issue such orders as  
5 may be appropriate to protect the confidentiality of trade secrets.

6 **Sec. 53.** RCW 49.17.210 and 1991 c 89 s 1 are each amended to read  
7 as follows:

8 The director (~~(is authorized to)~~) may conduct, either directly or  
9 by grant or contract, research, experiments, and demonstrations as may  
10 be of aid and assistance in the furtherance of the objects and purposes  
11 of this chapter. Employer identity, employee identity, and personal  
12 identifiers of voluntary participants in research, experiments, and  
13 demonstrations (~~(shall be deemed)~~) are confidential and (~~(shall)~~) are  
14 not (~~(be)~~) open to public inspection. Information obtained from  
15 (~~(such)~~) these voluntary activities (~~(shall not be deemed to be)~~) is  
16 not medical information for the purpose of RCW 51.36.060 and (~~(shall be~~  
17 ~~deemed)~~) is confidential and (~~(shall)~~) not (~~(be)~~) open to public  
18 inspection. The director, in his or her discretion, (~~(is authorized~~  
19 ~~to)~~) may grant a variance from any rule (~~(or regulation)~~) or portion  
20 thereof, whenever he or she determines that (~~(such)~~) a variance is  
21 necessary to permit an employer to participate in an experiment  
22 approved by the director, and the experiment is designed to demonstrate  
23 or validate new and improved techniques to safeguard the health or  
24 safety of employees. Any (~~(such)~~) variance shall require that all due  
25 regard be given to the health and safety of all employees participating  
26 in any experiment.

27 **Sec. 54.** RCW 49.17.220 and 1973 c 80 s 22 are each amended to read  
28 as follows:

29 (1) Each employer shall make, keep, and preserve, and make  
30 available to the director (~~(such)~~) records regarding his or her  
31 activities relating to this chapter as the director may prescribe by  
32 (~~(regulation)~~) rule as necessary or appropriate for the enforcement of  
33 this chapter or for developing information regarding the causes and  
34 prevention of occupational accidents and illnesses. In order to carry  
35 out (~~(the provisions of)~~) this section (~~(such regulations)~~), these  
36 rules may include provisions requiring employers to conduct periodic

1 inspections. The director shall also (~~issue regulations~~) adopt rules  
2 requiring that employers, through posting of notices or other  
3 appropriate means, keep their employees informed of their protections  
4 and obligations under this chapter, including the provisions of  
5 applicable safety and health standards.

6 (2) The director shall (~~prescribe regulations~~) adopt rules  
7 requiring employers to maintain accurate records, and to make periodic  
8 reports of work-related deaths, and of injuries and illnesses other  
9 than minor injuries requiring only first aid treatment and (~~which~~)  
10 that do not involve medical treatment, loss of consciousness,  
11 restriction of work or motion, or transfer to another job.

12 (3) The director shall (~~issue regulations~~) adopt rules requiring  
13 employers to maintain accurate records of employee exposures to  
14 potentially toxic materials or harmful physical agents (~~which~~) that  
15 are required to be monitored or measured. (~~Such regulations~~) These  
16 rules shall provide employees or their representatives with an  
17 opportunity to observe (~~such~~) the monitoring or measuring, and to  
18 have access to (~~the~~) their records (~~thereof~~). (~~Such regulations~~)  
19 The rules shall also make appropriate provisions for each employee or  
20 former employee to have access to (~~such~~) records (~~as will~~) that  
21 indicate his or her own exposure to toxic materials or harmful physical  
22 agents. Each employer shall promptly notify any employee who has been  
23 or is being exposed to toxic materials or harmful physical agents in  
24 concentrations or at levels (~~which~~) that exceed those prescribed by  
25 any applicable safety and health standard (~~promulgated~~) adopted under  
26 this chapter and shall inform any employee who is being thus exposed of  
27 the corrective action being taken.

28 **Sec. 55.** RCW 49.17.230 and 1973 c 80 s 23 are each amended to read  
29 as follows:

30 The director (~~is authorized to~~) may adopt by rule any provision  
31 reasonably necessary to enable this state to qualify a state plan under  
32 section 18 of the occupational safety and health act of 1970 (~~Public~~  
33 ~~Law~~) P.L. 91-596, 84 Stat. 1590) to enable this state to assume the  
34 responsibility for the development and enforcement of occupational  
35 safety and health standards in all workplaces within this state subject  
36 to the legislative jurisdiction of the state of Washington. The  
37 director (~~is authorized to~~) may enter into agreement with the United

1 States and to accept on behalf of the state of Washington grants of  
2 funds to implement the development and enforcement of this chapter and  
3 the occupational safety and health act of 1970.

4 **Sec. 56.** RCW 49.17.240 and 1973 c 80 s 24 are each amended to read  
5 as follows:

6 (1) The director in (~~the promulgation of~~) adopting rules under  
7 (~~the authority of~~) this chapter shall establish safety and health  
8 standards for conditions of employment of general (~~and/or~~) or  
9 specific applicability for all industries, businesses, occupations,  
10 crafts, trades, and employments subject to (~~the provisions of~~) this  
11 chapter, or those that are a national or accepted federal standard. In  
12 adopting safety and health standards for conditions of employment, the  
13 director shall solicit and give due regard to all recommendations by  
14 any employer, employee, or labor representative of employees.

15 (2) Any safety and health standard adopted by rule of the director  
16 shall, where appropriate, prescribe the use of labels or other forms of  
17 warning to insure that employees are apprised of all hazards to which  
18 they may be exposed, relevant symptoms, and appropriate emergency  
19 treatment, and proper conditions and precautions of safe use or  
20 exposure. Where appropriate, (~~such~~) the rules shall (~~so~~) prescribe  
21 suitable protective equipment and control or technological procedures  
22 to be used in connection with (~~such~~) the hazards and shall provide  
23 for monitoring or measuring employee exposure at (~~such~~) the locations  
24 and intervals, and in (~~such~~) a manner as may be reasonably necessary  
25 for the protection of employees. In addition, where appropriate, (~~any~~  
26 ~~such~~) the rules shall prescribe the type and frequency of medical  
27 examinations or other tests (~~which~~) that shall be made available, by  
28 the employer or at his or her cost, to employees exposed to such  
29 hazards in order to most effectively determine whether the health of  
30 (~~such~~) the employees is adversely affected by (~~such~~) the exposure.  
31 (~~In the event that such~~) If medical examinations are in the nature of  
32 research, as determined by the director, (~~such~~) the examinations may  
33 be furnished at the expense of the department. The results of (~~such~~)  
34 examinations or tests shall be furnished only to the director, other  
35 appropriate agencies of government, and at the request of the employee  
36 to his or her physician.

1 (3) Whenever the director adopts by rule any safety and health  
2 standard he or she may at the same time provide by rule the effective  
3 date of (~~such~~) the standard, which shall not be less than thirty  
4 days, excepting emergency rules, but may be made effective at such time  
5 in excess of thirty days from the date of adoption as specified in any  
6 rule adopting a safety and health standard. Any rule not made  
7 effective thirty days after adoption, having a delayed effectiveness in  
8 excess of thirty days, may only be made upon a finding made by the  
9 director that (~~such~~) delayed effectiveness of the rule is reasonably  
10 necessary to afford the affected employers a reasonable opportunity to  
11 make changes in methods, means, or practices to meet the requirements  
12 of the adopted rule. Temporary orders granting a variance may be  
13 utilized by the director in lieu of the delayed effectiveness in the  
14 adoption of any rule.

15 **Sec. 57.** RCW 49.17.250 and 1991 c 89 s 2 are each amended to read  
16 as follows:

17 (1) In carrying out the responsibilities for the development of a  
18 voluntary compliance program under (~~the authority of~~) RCW  
19 49.17.050(8) and the rendering of advisory and consultative services to  
20 employers, the director may grant an employer's application for advice  
21 and consultation, and for the purpose of affording such consultation  
22 and advice visit the employer's workplace. Such consultation and  
23 advice shall be limited to the matters specified in the request  
24 affecting the interpretation and applicability of safety and health  
25 standards to the conditions, structures, machines, equipment,  
26 apparatus, devices, materials, methods, means, and practices in the  
27 employer's workplace. The director in granting any requests for  
28 consultative or advisory service may provide for an alternative means  
29 of affording consultation and advice other than on-site consultation.

30 (2) The director, or an authorized representative, will make  
31 recommendations regarding the elimination of any hazards disclosed  
32 within the scope of the on-site consultation. No visit to an  
33 employer's workplace shall be regarded as an inspection or  
34 investigation under (~~the authority of~~) this chapter, and no notices  
35 or citations shall be issued, nor, shall any civil penalties be  
36 assessed upon such visit, nor shall any authorized representative of  
37 the director designated to render advice and consult with employers

1 under the voluntary compliance program have any enforcement  
2 authority(~~(: PROVIDED, That in the event)~~). If an on-site visit  
3 discloses a serious violation of a health and safety standard as  
4 defined in RCW 49.17.180(6), and the hazard of (~~such~~) the violation  
5 is either not abated by the cooperative action of the employer, or, is  
6 not subject to being satisfactorily abated by the cooperative action of  
7 the employer, the director shall either invoke the administrative  
8 restraining authority provided in RCW 49.17.130 or seek the issuance of  
9 injunctive process under the authority of RCW 49.17.170 or invoke both  
10 (~~such~~) remedies.

11 (3) (~~Nothing in~~) This section (~~shall be construed as providing~~)  
12 does not provide immunity to any employer who has (~~made application~~)  
13 applied for consultative services during the pendency of the granting  
14 of such application from inspections or investigations conducted under  
15 RCW 49.17.070 or any inspection conducted as a result of a complaint,  
16 nor immunity from inspections under RCW 49.17.070 or inspections  
17 resulting from a complaint subsequent to the conclusion of the  
18 consultative period. This section (~~shall not be construed as~~  
19 ~~requiring~~) does not require an inspection under RCW 49.17.070 of any  
20 workplace (~~which~~) that has been visited for consultative purposes.  
21 However, in the event of a subsequent inspection, the director, or an  
22 authorized representative, may in his or her discretion take into  
23 consideration any information obtained during the consultation visit of  
24 that workplace in determining the nature of an alleged violation and  
25 the amount of penalties to be assessed, if any. (~~Such~~) Rules (~~and~~  
26 ~~regulations to be promulgated pursuant to~~) adopted under this section  
27 shall provide that in all instances of serious violations as defined in  
28 RCW 49.17.180(6) which are disclosed in any consultative period, shall  
29 be corrected within a specified period of time at the expiration of  
30 which an inspection will be conducted under (~~the authority of~~) RCW  
31 49.17.070. All employers requesting consultative services shall be  
32 advised of the provisions of this section and the rules adopted by the  
33 director relating to the voluntary compliance program. Information  
34 obtained by the department as a result of employer-requested  
35 consultation and training services (~~shall be deemed~~) is confidential  
36 and (~~shall~~) not (~~be~~) open to public inspection. Within thirty days  
37 of receipt, the employer shall make voluntary services reports  
38 available to employees or their collective bargaining representatives

1 for review. Employers may satisfy the availability requirement by  
2 requesting a copy of the reports from the department. The director may  
3 provide by rule for the frequency, manner, and method of the rendering  
4 of consultative services to employers, and for the scheduling and  
5 priorities in granting applications consistent with the availability of  
6 personnel, and in ~~((such))~~ a manner as not to jeopardize the  
7 enforcement requirements of this chapter.

8 **Sec. 58.** RCW 49.17.260 and 1973 c 80 s 26 are each amended to read  
9 as follows:

10 In furtherance of the objects and purposes of this chapter, the  
11 director shall develop and maintain an effective program of collection,  
12 compilation, and analysis of industrial safety and health statistics.  
13 The director, or his or her authorized representative, shall  
14 investigate and analyze industrial catastrophes, serious injuries, and  
15 fatalities occurring in any workplace subject to this chapter, in an  
16 effort to ascertain whether ~~((such))~~ the injury or fatality occurred as  
17 the result of a violation of this chapter, or any safety and health  
18 standard, rule, or order ~~((promulgated pursuant to))~~ adopted under this  
19 chapter, or if not, whether a safety and health standard or rule should  
20 be ~~((promulgated))~~ adopted for application to such circumstances. The  
21 director shall adopt rules relating to the conducting and reporting of  
22 ~~((such))~~ these investigations. ~~((Such))~~ The investigative report  
23 ~~((shall be deemed))~~ is confidential and only available upon order of  
24 the superior court after notice to the director and an opportunity for  
25 hearing~~((:—PROVIDED, That such)).~~ However, investigative reports  
26 shall be made available without the necessity of obtaining a court  
27 order, to: Employees of governmental agencies in the performance of  
28 their official duties~~((, to))~~; the injured ~~((workman or))~~ worker, his  
29 or her legal representative or ~~((his))~~ labor organization  
30 representative~~((, or to))~~; the legal representative or labor  
31 organization representative of a deceased ~~((workman))~~ worker who was  
32 the subject of an investigation~~((, or to))~~; the employer of the injured  
33 or deceased ~~((workman))~~ worker or any other employer or person whose  
34 actions or business operation is the subject of the report of  
35 investigation~~((,))~~; or any attorney representing a party in any pending  
36 legal action in which an investigative report constitutes relevant and  
37 material evidence in ~~((such))~~ the legal action.

1       **Sec. 59.** RCW 49.17.270 and 1973 c 80 s 27 are each amended to read  
2 as follows:

3       The department (~~shall be~~) is the sole and paramount  
4 administrative agency responsible for the administration of (~~the~~  
5 ~~provisions of~~) this chapter(~~, and~~). Any other agency of the state  
6 or any municipal corporation or political subdivision of the state  
7 having administrative authority over the inspection, survey,  
8 investigation, or any regulatory or enforcement authority of safety and  
9 health standards related to the health and safety of employees in any  
10 workplace subject to this chapter, (~~shall be required, notwithstanding~~  
11 ~~any statute to the contrary, to~~) must exercise (~~such~~) the authority  
12 (~~as~~) provided in this chapter and subject to interagency agreement or  
13 agreements with the department made under the authority of the  
14 interlocal cooperation act (chapter 39.34 RCW) relative to the  
15 procedures to be followed in the enforcement of this chapter(~~+~~  
16 ~~PROVIDED, That~~). In relation to employers using or possessing sources  
17 of ionizing radiation the department (~~of labor and industries~~) and  
18 the department of social and health services shall agree upon mutual  
19 policies(~~,~~) and rules(~~, and regulations~~) compatible with  
20 policies(~~,~~) and rules(~~, and regulations~~) adopted (~~pursuant to~~)  
21 under chapter 70.98 RCW insofar as (~~such~~) the policies(~~,~~) and  
22 rules(~~, and regulations~~) are not inconsistent with (~~the provisions~~  
23 ~~of~~) this chapter.

24       **Sec. 60.** RCW 49.17.280 and 1996 c 260 s 2 are each amended to read  
25 as follows:

26       (1) As used in this section, "federal worker protection standard"  
27 or "federal standard" means the worker protection standard for  
28 agricultural workers and handlers of agricultural pesticides adopted by  
29 the United States environmental protection agency in 40 C.F.R., part  
30 170 as it exists on June 6, 1996.

31       (2)(a) No rule adopted under this chapter may impose requirements  
32 that make compliance with the federal worker protection standard  
33 impossible.

34       (b) The department shall adopt by rule safety and health standards  
35 that are at least as effective as the federal standard. Standards  
36 adopted by the department under this section shall be adopted in  
37 coordination with the department of agriculture.

1 (3) If a violation of the federal worker protection standard, or of  
2 state rules regulating activities governed by the federal standard, is  
3 investigated by the department and by the department of agriculture,  
4 the agencies shall conduct a joint investigation if feasible, and shall  
5 share relevant information. However, an investigation conducted by the  
6 department under Title 51 RCW solely with regard to industrial  
7 insurance (~~(shall not be considered to be)~~) is not an investigation by  
8 the department for this purpose. The agencies shall not issue  
9 duplicate citations to an individual or business for the same violation  
10 of the federal standard or state rules regulating activities governed  
11 by the federal standard. (~~(By December 1, 1996,)~~) The department and  
12 the department of agriculture shall jointly establish a formal  
13 agreement that: Identifies the roles of each of the two agencies in  
14 conducting investigations of activities governed by the federal  
15 standard; and provides for protection of workers and enforcement of  
16 standards that is at least as effective as provided to all workers  
17 under this chapter. The department's role under the agreement shall  
18 not extend beyond protection of safety and health in the workplace as  
19 provided under this chapter.

20 **Sec. 61.** RCW 49.17.285 and 2004 c 272 s 1 are each amended to read  
21 as follows:

22 Employers whose employees receive medical monitoring under chapter  
23 296-307 WAC, Part J-1, shall submit records to the department (~~(of~~  
24 ~~labor and industries)~~) each month indicating the name of each worker  
25 tested, the number of hours that each worker handled covered pesticides  
26 during the thirty days (~~(prior to)~~) before testing, and the number of  
27 hours that each worker handled covered pesticides during the current  
28 calendar year. The department (~~(of labor and industries)~~) shall work  
29 with the department of health to correlate this data with each  
30 employee's test results. (~~(No later than January 1, 2005,)~~) The  
31 department of labor and industries shall require employers to report  
32 this data to the physician or other licensed health care professional  
33 and department of health public health laboratory or other approved  
34 laboratory when each employee's cholinesterase test is taken. The  
35 department shall also require employers to provide each employee who  
36 receives medical monitoring with: (1) A copy of the data that the

1 employer reports for that employee upon that employee's request; and  
2 (2) access to the records on which the employer's report is based.

3 **Sec. 62.** RCW 49.17.300 and 1998 c 37 s 3 are each amended to read  
4 as follows:

5 ~~((By December 1, 1998,))~~ The department ~~((of labor and industries))~~  
6 shall adopt rules requiring electricity in all temporary worker housing  
7 and establishing minimum requirements to ensure the safe storage,  
8 handling, and preparation of food in these camps, regardless of whether  
9 individual or common cooking facilities are in use.

10 **Sec. 63.** RCW 49.17.320 and 1999 c 374 s 4 are each amended to read  
11 as follows:

12 ~~((By December 1, 1999,))~~ The department and the department of  
13 health shall jointly establish a formal agreement that identifies the  
14 roles of each of the two agencies with respect to the enforcement of  
15 temporary worker housing operation standards.

16 The agreement shall, to the extent feasible, provide for inspection  
17 and enforcement actions by a single agency, and shall include measures  
18 to avoid multiple citations for the same violation.

19 For the purposes of this section, "temporary worker housing" has  
20 the same meaning as provided in RCW 70.114A.020.

21 **Sec. 64.** RCW 49.17.350 and 2000 c 239 s 2 are each amended to read  
22 as follows:

23 (1) The director ~~((of the department of labor and industries))~~  
24 shall adopt permanent rules ~~((that take effect no later than March 1,~~  
25 ~~2001,))~~ revising ~~((any))~~ safety standards governing flaggers.

26 (2) The transportation commission shall adopt permanent rules  
27 ~~((that take effect no later than March 1, 2001,))~~ revising ~~((any))~~  
28 safety standards governing flaggers.

29 (3) The utilities and transportation commission shall adopt  
30 permanent rules ~~((that take effect no later than March 1, 2001,))~~  
31 revising ~~((any))~~ safety standards and employment qualifications  
32 governing flaggers.

33 (4) The ~~((permanent))~~ rules adopted ~~((pursuant to))~~ under this  
34 section shall be designed to improve options available to ensure the  
35 safety of flaggers, ensure that flaggers have adequate visual warning

1 of objects approaching from behind them, and, with respect to the  
2 utilities and transportation commission rules, update employment  
3 qualifications for flaggers.

4 (5) In developing (~~(permanent)~~) rules adopted (~~(pursuant to)~~) under  
5 this section, state agencies and commissions shall consult with other  
6 persons with an interest in improving safety standards and updating  
7 employment qualifications for flaggers. State agencies and commissions  
8 shall coordinate and make consistent, to the extent possible, permanent  
9 rules. (~~(State agencies and commissions shall report, by April 22,~~  
10 ~~2001, to the senate labor and workforce development committee and the~~  
11 ~~house of representatives commerce and labor committee on the permanent~~  
12 ~~rules adopted pursuant to this section.)~~)

13 **Sec. 65.** RCW 49.19.020 and 1999 c 377 s 3 are each amended to read  
14 as follows:

15 (1) (~~(By July 1, 2000,)~~) Each health care setting shall develop and  
16 implement a plan to reasonably prevent and protect employees from  
17 violence at the setting. The plan shall address security  
18 considerations related to the following items, as appropriate to the  
19 particular setting, based upon the hazards identified in the assessment  
20 required under subsection (2) of this section:

- 21 (a) The physical attributes of the health care setting;
- 22 (b) Staffing, including security staffing;
- 23 (c) Personnel policies;
- 24 (d) First aid and emergency procedures;
- 25 (e) The reporting of violent acts; and
- 26 (f) Employee education and training.

27 (2) Before the development of the plan required under subsection  
28 (1) of this section, each health care setting shall conduct a security  
29 and safety assessment to identify existing or potential hazards for  
30 violence and determine the appropriate preventive action to be taken.  
31 The assessment shall include, but is not limited to, a measure of the  
32 frequency of, and an identification of the causes for and consequences  
33 of, violent acts at the setting during at least the preceding five  
34 years or for the years records are available for assessments involving  
35 home health, hospice, and home care agencies.

36 (3) In developing the plan required by subsection (1) of this  
37 section, the health care setting may consider any guidelines on

1 violence in the workplace or in health care settings issued by the  
2 department of health, the department of social and health services, the  
3 department of labor and industries, the federal occupational safety and  
4 health administration, medicare, and health care setting accrediting  
5 organizations.

6 **Sec. 66.** RCW 49.19.030 and 1999 c 377 s 4 are each amended to read  
7 as follows:

8 ((By July 1, 2001, and)) On a regular basis ((thereafter)), as set  
9 forth in the plan developed under RCW 49.19.020, each health care  
10 setting shall provide violence prevention training to all its affected  
11 employees as determined by the plan. The training shall occur within  
12 ninety days of the employee's initial hiring date unless he or she is  
13 a temporary employee. For temporary employees, training would take  
14 into account unique circumstances. The training may vary by the plan  
15 and may include, but is not limited to, classes, videotapes, brochures,  
16 verbal training, or other verbal or written training that is determined  
17 to be appropriate under the plan. The training shall address the  
18 following topics, as appropriate to the particular setting and to the  
19 duties and responsibilities of the particular employee being trained,  
20 based upon the hazards identified in the assessment required under RCW  
21 49.19.020:

- 22 (1) General safety procedures;
- 23 (2) Personal safety procedures;
- 24 (3) The violence escalation cycle;
- 25 (4) Violence-predicting factors;
- 26 (5) Obtaining patient history from a patient with violent behavior;
- 27 (6) Verbal and physical techniques to de-escalate and minimize  
28 violent behavior;
- 29 (7) Strategies to avoid physical harm;
- 30 (8) Restraining techniques;
- 31 (9) Appropriate use of medications as chemical restraints;
- 32 (10) Documenting and reporting incidents;
- 33 (11) The process whereby employees affected by a violent act may  
34 debrief;
- 35 (12) Any resources available to employees for coping with violence;
- 36 and
- 37 (13) The health care setting's workplace violence prevention plan.

1       **Sec. 67.** RCW 49.19.040 and 1999 c 377 s 5 are each amended to read  
2 as follows:

3       (~~Beginning no later than July 1, 2000,~~) Each health care setting  
4 shall keep a record of any violent act against an employee, a patient,  
5 or a visitor occurring at the setting. At a minimum, the record shall  
6 include:

7       (1) The health care setting's name and address;

8       (2) The date, time, and specific location at the health care  
9 setting where the act occurred;

10       (3) The name, job title, department or ward assignment, and staff  
11 identification or social security number of the victim if an employee;

12       (4) A description of the person against whom the act was committed  
13 as:

14       (a) A patient;

15       (b) A visitor;

16       (c) An employee; or

17       (d) Other;

18       (5) A description of the person committing the act as:

19       (a) A patient;

20       (b) A visitor;

21       (c) An employee; or

22       (d) Other;

23       (6) A description of the type of violent act as a:

24       (a) Threat of assault with no physical contact;

25       (b) Physical assault with contact but no physical injury;

26       (c) Physical assault with mild soreness, surface abrasions,  
27 scratches, or small bruises;

28       (d) Physical assault with major soreness, cuts, or large bruises;

29       (e) Physical assault with severe lacerations, a bone fracture, or  
30 a head injury; or

31       (f) Physical assault with loss of limb or death;

32       (7) An identification of any body part injured;

33       (8) A description of any weapon used;

34       (9) The number of employees in the vicinity of the act when it  
35 occurred; and

36       (10) A description of actions taken by employees and the health  
37 care setting in response to the act. Each record shall be kept for at

1 least five years following the act reported, during which time it shall  
2 be available for inspection by the department upon request.

3 **Sec. 68.** RCW 49.22.010 and 1989 c 357 s 1 are each amended to read  
4 as follows:

5 ~~((As used in this chapter, the following terms have the meanings~~  
6 ~~indicated)) The definitions in this section apply throughout this  
7 chapter unless the context clearly requires otherwise.~~

8 (1) "Department" means the department of labor and industries.

9 (2) "Late night retail establishment" means any business or  
10 commercial establishment making sales to the public between the hours  
11 of eleven o'clock p.m. and six o'clock a.m., except restaurants,  
12 hotels, taverns, or any lodging facility.

13 (3) "Employer" means the operator, lessee, or franchisee of a late  
14 night retail establishment.

15 **Sec. 69.** RCW 49.22.020 and 1989 c 357 s 3 are each amended to read  
16 as follows:

17 ~~((In addition to providing crime prevention training as provided in~~  
18 ~~section 2 of this act,)) All employers operating late night retail  
19 establishments shall:~~

20 (1) Post a conspicuous sign in the window or door (~~which~~) that  
21 states (~~that~~) there is a safe on the premises and it is not  
22 accessible to the employees on the premises and that the cash register  
23 contains only the minimal amount of cash needed to conduct business(~~+~~  
24 ~~PROVIDED, That~~)). An employer (~~shall not be~~) is not subject to  
25 penalties under RCW 49.22.030 for having money(~~s~~) in the cash  
26 register in excess of the minimal amount needed to conduct business;

27 (2) (~~So~~) Arrange all material posted in the window or door so as  
28 to provide a clear and unobstructed view of the cash register, provided  
29 the cash register is otherwise in a position visible from the street;

30 (3) Have a drop-safe, limited access safe, or comparable device on  
31 the premises; and

32 (4) Operate the outside lights for that portion of the parking area  
33 that is necessary to accommodate customers during all night hours the  
34 late night retail establishment is open, if the late night retail  
35 establishment has a parking area for its customers.

1       **Sec. 70.** RCW 49.24.010 and 1937 c 131 s 1 are each amended to read  
2 as follows:

3       (~~The term~~) For the purposes of this chapter, "pressure" means  
4 gauge air pressure in pounds per square inch.

5       **Sec. 71.** RCW 49.24.020 and 1937 c 131 s 2 are each amended to read  
6 as follows:

7       Every employer of persons for work in compressed air shall:

8       (1) Connect at least two air pipes with the working chamber and  
9 keep such pipes in perfect working condition;

10       (2) Attach to the working chamber in accessible positions all  
11 instruments necessary to show its pressure and keep (~~such~~) the  
12 instruments in charge of competent persons, with a period of duty for  
13 each (~~such~~) person not exceeding six hours in any twenty-four;

14       (3) Place in each shaft a safe ladder extending its entire length;

15       (4) Light properly and keep the passageway clear (~~such~~  
16 passageway));

17       (5) Provide independent lighting systems for the working chamber  
18 and shaft leading to it, when electricity is used for lighting;

19       (6) Guard lights other than electric lights;

20       (7) Protect (~~workmen~~) workers by a shield erected in the working  
21 chamber when (~~such~~) the chamber is less than ten feet long and is  
22 suspended with more than nine feet space between its deck and the  
23 bottom of the excavation;

24       (8) Provide for and keep accessible to employees working in  
25 compressed air a dressing room heated, lighted, and ventilated properly  
26 and supplied with benches, lockers, sanitary waterclosets, bathing  
27 facilities, and hot and cold water; and

28       (9) Establish and maintain a medical lock properly heated, lighted,  
29 ventilated, and supplied with medicines and surgical implements, when  
30 the maximum air pressure exceeds seventeen pounds.

31       **Sec. 72.** RCW 49.24.040 and 1937 c 131 s 4 are each amended to read  
32 as follows:

33       If an employee is a new employee, an absentee for ten or more  
34 successive days, an employee who has worked in compressed air  
35 continuously for three months or a beginner in compressed air who has  
36 worked but a single (~~shaft [shift] as required by RCW 49.24.050~~)

1 shift, the officer required by RCW 49.24.030(1) shall examine ((him))  
2 the employee and declare him or her physically fit to work in  
3 compressed air before permitting ((him)) the employee to enter or  
4 reenter the working chamber. Excessive users of intoxicants shall not  
5 be permitted to work in compressed air.

6 **Sec. 73.** RCW 49.24.060 and 1937 c 131 s 7 are each amended to read  
7 as follows:

8 Violation of or noncompliance with any provision of ((this  
9 article)) RCW 49.24.010 through 49.24.070 by any employer, manager,  
10 superintendent, ((foreman)) foreperson, or other person having  
11 direction or control of ((such)) the work ((shall be)) is a gross  
12 misdemeanor punishable by a fine of not less than two hundred ((and))  
13 fifty dollars or by imprisonment for not more than one year, or by both  
14 ((such)) a fine and imprisonment.

15 **Sec. 74.** RCW 49.24.070 and 1994 c 164 s 23 are each amended to  
16 read as follows:

17 The director of labor and industries shall ((have the power and it  
18 shall be the director's duty to)) enforce the provisions of RCW  
19 49.24.010 through 49.24.070. Any authorized inspector or agent of the  
20 department may issue and serve upon the employer or person in charge of  
21 ((such)) the work, an order requiring compliance with ((a special)) any  
22 provision ((or specific provisions)) of RCW 49.24.010 through 49.24.070  
23 and directing the discontinuance of any employment of persons in  
24 compressed air in connection with ((such)) the work until ((such  
25 specific)) the provision ((or provisions have)) has been complied with  
26 by ((such)) the employer to the satisfaction of the department.

27 **Sec. 75.** RCW 49.24.080 and 1973 1st ex.s. c 154 s 89 are each  
28 amended to read as follows:

29 Every person, firm, or corporation constructing, building, or  
30 operating a tunnel, quarry, caisson, or subway, excepting in connection  
31 with mines, with or without compressed air, shall in the employment of  
32 any labor comply with the following safety provisions:

33 (1) A safety miner shall be selected by the crew on each shift who  
34 shall check the conditions necessary to make the ((working place))

1 workplace safe; such as loose rock, faulty timbers, poor rails, lights,  
2 ladders, scaffolds, fan pipes, and firing lines.

3 (2) Ventilating fans shall be installed from twenty-five to one  
4 hundred feet outside the portal.

5 (3) No employee shall be allowed to "bar down" without the  
6 assistance of another employee.

7 (4) No employee shall be permitted to return to the heading until  
8 at least thirty minutes after blasting.

9 (5) Whenever persons are employed in wet places, the employer shall  
10 furnish (~~such~~) those persons with rubbers, boots, coats, and hats.  
11 All boots if worn previously by an employee shall be sterilized before  
12 being furnished to another(~~(: PROVIDED, That)~~). RCW 49.24.080 through  
13 49.24.380 (~~shall~~) do not apply to the operation of a railroad except  
14 that new construction of tunnels, caissons, or subways in connection  
15 therewith (~~shall be~~) are subject to (~~the provisions of~~) RCW  
16 49.24.080 through 49.24.380(~~(: PROVIDED, FURTHER, That in the event~~  
17 ~~of)~~). If repair work is being done in a railroad tunnel, no person  
18 shall be compelled to perform labor until the air has been cleared of  
19 smoke, gas, and fumes.

20 **Sec. 76.** RCW 49.24.150 and 1941 c 194 s 8 are each amended to read  
21 as follows:

22 When locking explosives and detonators into the air chamber, they  
23 shall be kept at opposite ends of the lock. While explosives and  
24 detonators are being taken through, no (~~men~~) persons other than the  
25 lock tender and the carriers (~~shall be~~) are permitted in the lock.

26 **Sec. 77.** RCW 49.24.170 and 1941 c 194 s 10 are each amended to  
27 read as follows:

28 When electric power is used for running compressors supplying air  
29 for compressed air tunnel work and (~~such~~) the power is purchased from  
30 a local central station or power company(~~(—)~~);

31 (1) There shall be two or more sources of power from the power  
32 company's stations to the compressor plant. (~~Such~~) The power feeders  
33 shall each have a capacity large enough to carry the entire compressor  
34 plant load and normal overload. The feeders shall preferably run from  
35 separate generating plants or substations and be carried to the

1 compressor plant over separate routes and not through the same duct  
2 lines and manholes so that the breakdown of one feeder shall not cause  
3 an interruption on the other feeder((~~-~~));i

4 (2) There shall be duplicate feeder bus-bars, and feeder  
5 connections to the bus-bars shall be such that either feeder can feed  
6 to each separate bus-bar set, individually, or simultaneously to both  
7 sets((~~-~~));i

8 (3) There shall be at least two compressors so connected to the  
9 bus-bars that they can be operated from either set of busses. The  
10 compressors shall be fed from different bus-bar sets, in such a way  
11 that a breakdown of a feeder or bus-bar would interrupt the operation  
12 of only part of the compressor plant((~~-~~));and

13 (4) Duplicate air feed pipes shall be provided from the compressor  
14 plant to a point beyond the lock.

15 **Sec. 78.** RCW 49.24.180 and 1941 c 194 s 11 are each amended to  
16 read as follows:

17 While work is in progress, the employer shall employ a competent  
18 person who shall make a regular inspection at least once every working  
19 day of all engines, boilers, steam pipes, drills, air pipes, air  
20 gauges, air locks, dynamos, electric wiring, signaling apparatus,  
21 brakes, cages, buckets, hoists, cables, ropes, timbers, supports, and  
22 all other apparatus and appliances; and he or she shall immediately  
23 upon discovery of any defect, report ((~~same~~)) the defect in writing to  
24 the employer, or his or her agent in charge.

25 **Sec. 79.** RCW 49.24.190 and 1941 c 194 s 12 are each amended to  
26 read as follows:

27 No employee shall ride on any loaded car, cage, or bucket, nor walk  
28 up or down any incline or shaft while any car, cage, or bucket is above  
29 him or her.

30 **Sec. 80.** RCW 49.24.220 and 1941 c 194 s 15 are each amended to  
31 read as follows:

32 (1) No greater quantity of explosives than that which is required  
33 for immediate use shall be taken into the working chamber.

34 (2) Explosives shall be conveyed in a suitable covered wooden box.

35 (3) Detonators shall be conveyed in a separate covered wooden box.

- 1 (4) Explosives and detonators shall be taken separately into the  
2 caissons.
- 3 (5) After blasting is completed, all explosives and detonators  
4 shall be returned at once to the magazine.
- 5 (6) No naked light shall be used in the vicinity of open chests or  
6 magazines containing explosives, nor near where a charge is being  
7 primed.
- 8 (7) No tools or other articles shall be carried with the explosives  
9 or with the detonators.
- 10 (8) All power lines and electric light wires shall be disconnected  
11 at a point outside the blasting switch before the loading of holes. No  
12 current by grounding of power or bonded rails (~~shall be~~) is allowed  
13 beyond blasting switch after explosives are taken in preparatory to  
14 blasting, and under no circumstances shall grounded current be used for  
15 exploding blasts.
- 16 (9) Before drilling is commenced on any shift, all remaining holes  
17 shall be examined with a wooden stick for unexploded charges or  
18 cartridges, and if any are found, (~~same~~) they shall be refired before  
19 work proceeds.
- 20 (10) No person (~~shall be~~) is allowed to deepen holes that have  
21 previously contained explosives.
- 22 (11) All wires in broken rock shall be carefully traced and search  
23 made for unexploded cartridges.
- 24 (12) Whenever blasting is being done in a tunnel, at points liable  
25 to break through to where other (~~men~~) persons are at work, the  
26 (~~foreman or~~) person in charge shall, before any holes are loaded,  
27 give warning of danger to all persons that may be working where the  
28 blasts may break through, and he or she shall not allow any holes to be  
29 charged until warning is acknowledged and (~~men~~) persons are removed.
- 30 (13) Blasters when testing circuit through charged holes shall use  
31 sufficient leading wires to be at a safe distance and shall use only  
32 approved types of galvanometers. No tests of circuits in charged holes  
33 shall be made until (~~men~~) persons are removed to a safe distance.
- 34 (14) No blasts shall be fired with a fuse, except an electrically  
35 ignited fuse, in vertical or steep shafts.
- 36 (15) In shaft sinking where the electric current is used for  
37 firing, a separate switch not controlling any electric lights must be

1 used for blasting and proper safeguards similar to those in tunnels  
2 must be followed in order to (~~insure~~) ensure against premature  
3 firing.

4 **Sec. 81.** RCW 49.24.230 and 1941 c 194 s 16 are each amended to  
5 read as follows:

6 (1) When firing by electricity from power or lighting wires, a  
7 proper switch shall be furnished with lever down when "off."

8 (2) The switch shall be fixed in a locked box to which no person  
9 (~~shall have~~) has access except the blaster. There shall be provided  
10 flexible leads or connecting wires not less than five feet in length  
11 with one end attached to the incoming lines and the other end provided  
12 with plugs that can be connected to an effective ground. After  
13 blasting, the switch lever shall be pulled out, the wires disconnected,  
14 and the box locked before any person (~~shall be~~) is allowed to return,  
15 and shall remain (~~se~~) locked until again ready to blast.

16 (3) In the working chamber all electric light wires shall be  
17 provided with a disconnecting switch, which must be thrown to  
18 disconnect all current from the wires in the working chamber before  
19 electric light wires are removed or the charge exploded.

20 (4) Before blasting the blaster shall cause a sufficient warning to  
21 be sounded and shall compel all persons to retreat to a safe shelter,  
22 before he or she sets off the blast, and shall permit no one to return  
23 until conditions are safe.

24 **Sec. 82.** RCW 49.24.250 and 1941 c 194 s 18 are each amended to  
25 read as follows:

26 (1) Any code of signals used shall be printed and copies thereof,  
27 in (~~such~~) languages as may be necessary to be understood by all  
28 persons affected thereby, shall be kept posted in a conspicuous place  
29 near entrances to workplaces and in (~~such~~) other places as may be  
30 necessary to bring them to the attention of all persons affected  
31 thereby.

32 (2) Effective and reliable signaling devices shall be maintained at  
33 all times to give instant communication between the bottom and top of  
34 the shaft.

1       **Sec. 83.** RCW 49.24.260 and 1941 c 194 s 19 are each amended to  
2 read as follows:

3       (1) All shafting used in pneumatic caissons shall be provided with  
4 ladders, which are to be kept clear and in good condition at all times.  
5 The distance between the centers of the rungs of a ladder shall not  
6 exceed fourteen inches and shall not vary more than one inch in any one  
7 piece of shafting. The length of the ladder rungs shall not be less  
8 than nine inches. The rungs of the ladder shall in no case be less  
9 than three inches from the wall or other obstruction in the shafting or  
10 opening in which the ladder (~~shall be~~) is used. Under no  
11 circumstances shall a ladder inclining backward from the vertical be  
12 installed. A suitable ladder shall be provided from the top of all  
13 locks to the surface.

14       (2) All man shafts shall be lighted at a distance of every ten feet  
15 with a guarded incandescent lamp.

16       (3) All outside caisson air locks shall be provided with a platform  
17 not less than forty-two inches wide, and provided with a guard rail  
18 forty-two inches high.

19       (4) All caissons in which fifteen or more (~~men~~) workers are  
20 employed shall have two locks, one of which shall be used as a man  
21 lock. Man locks and man shafts shall be in charge of a (~~man whose~~  
22 ~~duty it shall be to~~) worker who must operate (~~said~~) the lock and  
23 shaft. All caissons more than ten feet in diameter shall be provided  
24 with a separate man shaft, which shall be kept clear and in operating  
25 order at all times.

26       (5) Locks shall be so located that the distance between the bottom  
27 door and water level (~~shall be~~) is not less than three feet.

28       **Sec. 84.** RCW 49.24.290 and 1941 c 194 s 22 are each amended to  
29 read as follows:

30       (1) In all shafts where (~~men~~) workers are hoisted or lowered, an  
31 iron-bonneted cage shall be used for the conveyance of (~~men~~) workers,  
32 but this provision shall not apply to shafts in the process of sinking  
33 or during the dismantling of the shaft after work in the tunnel is  
34 substantially completed.

35       (2) Cages shall be provided with bonnets consisting of two steel  
36 plates not less than three-sixteenths of an inch in thickness, sloping  
37 toward each side and so arranged that they may be readily pushed upward

1 to afford egress to persons therein, and (~~such~~) the bonnet shall  
2 cover the top of the cage in (~~such~~) a manner as to protect persons in  
3 the cage from falling objects.

4 (3) Cages shall be entirely enclosed on two sides with solid  
5 partition or wire mesh not less than No. 8 U.S. Standard gauge, no  
6 opening in which shall exceed two inches.

7 (4) Cages shall be provided with hanging chains or other similar  
8 devices for hand holds.

9 (5) Every cage shall be provided with an approved safety catch of  
10 sufficient strength to hold the cage with its maximum load at any point  
11 in the shaft.

12 (6) All parts of the hoisting apparatus, cables, brakes, guides,  
13 and fastenings shall be of the most substantial design and shall be  
14 arranged for convenient inspection. The efficiency of all safety  
15 devices shall be established by satisfactory tests before the cages are  
16 put into service and at least once every three months thereafter and a  
17 record thereof kept.

18 (7) The test of the safety catch shall consist of releasing the  
19 cage suddenly in such manner that the safety catches shall have  
20 opportunity to grip the guides.

21 **Sec. 85.** RCW 49.24.310 and 1941 c 194 s 24 are each amended to  
22 read as follows:

23 Where tunnels are driven from shafts more than two hundred (~~and~~)  
24 fifty feet deep, a telephone system shall be established and  
25 maintained, communicating with the surface at each (~~such~~) shaft, and  
26 with a station or stations readily and quickly accessible to the  
27 (~~men~~) workers at the working level.

28 **Sec. 86.** RCW 49.24.320 and 1941 c 194 s 25 are each amended to  
29 read as follows:

30 (1) While work is in progress, tunnels, stairways, ladderways,  
31 and all places on the surface where work is being conducted, shall be  
32 properly lighted. In shafts more than one hundred feet deep, the shaft  
33 below that point shall be lighted.

34 (2) All places where hoisting, pumping,  
35 or other machinery is erected and in the proximity of which persons are working or moving

1 about, shall be so lighted when the machine is in operation that the  
2 moving parts of (~~such~~) the machine can be clearly distinguished.

3 **Sec. 87.** RCW 49.24.330 and 1941 c 194 s 26 are each amended to  
4 read as follows:

5 The frames and bed plates of generators, transformers,  
6 compensators, rheostats, and motors installed underground shall be  
7 effectively grounded. All metallic coverings, armoring of cables,  
8 other than trailing cables, and the neutral wire of three-wire systems  
9 shall also be so grounded.

10 **Sec. 88.** RCW 49.24.340 and 1941 c 194 s 27 are each amended to  
11 read as follows:

12 In electrical systems installed, no higher voltage than low voltage  
13 shall be used underground, except for transmission or other application  
14 to transformers, motors, generators, or other apparatus in which the  
15 whole of the medium or high voltage apparatus is stationary.

16 **Sec. 89.** RCW 49.24.370 and 1941 c 194 s 32 are each amended to  
17 read as follows:

18 The director of labor and industries shall establish (~~such~~) rules  
19 (~~and regulations as he deems primarily~~) necessary for the safety of  
20 the employees employed in tunnels, quarries, caissons, and subways and  
21 shall be guided by the most modern published studies and researches  
22 made by persons or institutions into the correction of the evils  
23 chargeable to improper safeguards and inspection of the tools,  
24 machinery, equipment, and places of work obtaining in the industries  
25 covered by RCW 49.24.080 through 49.24.380.

26 **Sec. 90.** RCW 49.26.010 and 1973 c 30 s 1 are each amended to read  
27 as follows:

28 Air-borne asbestos dust and particles, such as those from sprayed  
29 asbestos slurry, asbestos-coated ventilating ducts, and certain other  
30 applications of asbestos are known to produce irreversible lung damage  
31 and bronchogenic carcinoma. One American of every four dying in urban  
32 areas of the United States has asbestos particles or dust in his or her  
33 lungs. The nature of this problem is such as to constitute a hazard to

1 the public health and safety, and should be brought under appropriate  
2 regulation.

3 **Sec. 91.** RCW 49.26.013 and 1995 c 218 s 1 are each amended to read  
4 as follows:

5 (1)(a) Any owner or owner's agent who allows or authorizes any  
6 construction, renovation, remodeling, maintenance, repair, or  
7 demolition project (~~(which)~~) that has a reasonable possibility, as  
8 defined by the department, of disturbing or releasing asbestos into the  
9 air, shall perform or cause to be performed, using practices approved  
10 by the department, a good faith inspection to determine whether the  
11 proposed project will disturb or release any material containing  
12 asbestos into the air.

13 (~~(Such)~~) (b) Inspections shall be conducted by persons meeting the  
14 accreditation requirements of the federal toxics substances control  
15 act, section 206(a)(1) and (3) (15 U.S.C. 2646(a)(1) and (3)).

16 (c) An inspection under this section is not required if the owner  
17 or owner's agent is reasonably certain that asbestos will not be  
18 disturbed or assumes that asbestos will be disturbed by a project  
19 (~~(which)~~) that involves construction, renovation, remodeling,  
20 maintenance, repair, or demolition and takes the maximum precautions as  
21 specified by all applicable federal and state requirements.

22 (2) Except as provided in RCW 49.26.125, the owner or owner's agent  
23 shall prepare and maintain a written report describing each inspection,  
24 or a statement of assumption of the presence or reasonable certainty of  
25 the absence of asbestos, and shall provide a copy of the written report  
26 or statement to all contractors before they apply or bid on work. In  
27 addition, upon written or oral request, the owner or owner's agent  
28 shall make a copy of the written report available to: (~~(+1)~~) (a) The  
29 department (~~(of labor and industries)~~); (~~(+2)~~) (b) contractors; and  
30 (~~(+3)~~) (c) the collective bargaining representatives or employee  
31 representatives, if any, of employees who may be exposed to any  
32 asbestos or material containing asbestos. A copy shall be posted as  
33 prescribed by the department in a place that is easily accessible to  
34 (~~(such)~~) the employees.

35 **Sec. 92.** RCW 49.26.016 and 1995 c 218 s 2 are each amended to read  
36 as follows:

1 (1) Any owner or owner's agent who allows the start of any  
2 construction, renovation, remodeling, maintenance, repair, or  
3 demolition without first (a) conducting the inspection and preparing  
4 and maintaining the report of the inspection, or preparing and  
5 maintaining a statement of assumption of the presence or reasonable  
6 certainty of the absence of asbestos, as required under RCW 49.26.013;  
7 and (b) preparing and maintaining the additional written description of  
8 the project as required under RCW 49.26.120 (~~(shall be)~~) is subject to  
9 a mandatory fine of not less than two hundred fifty dollars for each  
10 violation. Each day the violation continues (~~(shall be)~~) is considered  
11 a separate violation. In addition, any construction, renovation,  
12 remodeling, maintenance, repair, or demolition (~~(which)~~) that was  
13 started without meeting the requirements of RCW 49.26.013 and 49.26.120  
14 shall be halted immediately and cannot be resumed before meeting  
15 (~~(such)~~) the requirements.

16 (2) No contractor may commence any construction, renovation,  
17 remodeling, maintenance, repair, or demolition project without  
18 receiving the copy of the written report or statement from the owner or  
19 the owner's agent. Any contractor who begins any project without the  
20 copy of the written report or statement (~~(shall be)~~) is subject to a  
21 mandatory fine of not less than two hundred (~~(and)~~) fifty dollars per  
22 day. Each day the violation continues (~~(shall be)~~) is considered a  
23 separate violation.

24 (3) The certificate of any certified asbestos contractor who  
25 knowingly violates any provision of this chapter or any rule adopted  
26 under this chapter shall be revoked for a period of not less than six  
27 months.

28 (4) The penalties imposed in this section are in addition to any  
29 penalties under RCW 49.26.140.

30 **Sec. 93.** RCW 49.26.020 and 1973 c 30 s 2 are each amended to read  
31 as follows:

32 Standards regulating the use of asbestos in construction or  
33 manufacturing shall be established by the director (~~(of the department~~  
34 ~~of labor and industries)~~), with the advice of the state health officer  
35 and the department of ecology. Standards to be adopted shall describe  
36 the types of asbestos that may be used in construction and  
37 manufacturing, the methods and procedures for their use, and (~~(such)~~)

1 other requirements (~~as may be~~) needed to protect the public health  
2 and safety with respect to air-borne asbestos particles and asbestos  
3 dust.

4 **Sec. 94.** RCW 49.26.030 and 1973 c 30 s 3 are each amended to read  
5 as follows:

6 Products containing asbestos shall be stored in containers of types  
7 approved by the director (~~of the department of labor and industries~~),  
8 with the advice of the state health officer and the department of  
9 ecology. Containers of asbestos shall be plainly marked "Asbestos--do  
10 not inhale" or other words to the same effect.

11 **Sec. 95.** RCW 49.26.040 and 1973 c 30 s 4 are each amended to read  
12 as follows:

13 The asbestos use standards required under RCW 49.26.020 and the  
14 list of approved container types required under RCW 49.26.030 shall be  
15 adopted (~~as regulations~~) by rule of the department (~~of labor and~~  
16 ~~industries~~). The department (~~shall have the power to~~) may implement  
17 and enforce (~~such regulations~~) these rules.

18 **Sec. 96.** RCW 49.26.110 and 1995 c 218 s 4 are each amended to read  
19 as follows:

20 (1) No employee or other individual (~~is eligible to~~) may do work  
21 governed by this chapter unless issued a certificate by the department.

22 (2)(a) To qualify for a certificate:

23 (~~a~~) (i) Certified asbestos workers must have successfully  
24 completed a four-day training course. Certified asbestos supervisors  
25 must have completed a five-day training course. Training courses shall  
26 be provided or approved by the department; shall cover such topics as  
27 the health and safety aspects of the removal and encapsulation of  
28 asbestos, including but not limited to the federal and state standards  
29 regarding protective clothing, respirator use, disposal, air  
30 monitoring, cleaning, and decontamination; and shall meet such  
31 additional qualifications as may be established by the department by  
32 rule for the type of certification sought. The department may require  
33 the successful completion of annual refresher courses provided or  
34 approved by the department for continued certification as an asbestos  
35 worker or supervisor. However, the authority of the director to adopt

1 rules implementing this section is limited to rules that are  
2 specifically required, and only to the extent specifically required,  
3 for the standards to be as stringent as the applicable federal laws  
4 governing work subject to this chapter; and

5 ~~((b))~~ (ii) All applicants for certification as asbestos workers  
6 or supervisors must pass an examination in the type of certification  
7 sought which shall be provided or approved by the department.

8 (b) These requirements are intended to represent the minimum  
9 requirements for certification and shall not preclude contractors or  
10 employers from providing additional education or training.

11 (3) The department shall provide for the reciprocal certification  
12 of any individual trained to engage in asbestos projects in another  
13 state when the prior training is shown to be substantially similar to  
14 the training required by the department. Nothing shall prevent the  
15 department from requiring ~~((such))~~ individuals to take an examination  
16 or refresher course before certification.

17 (4)(a) The department may deny, suspend, or revoke a certificate,  
18 as provided under RCW 49.26.140, for failure of the holder to comply  
19 with any requirement of this chapter or chapter 49.17 RCW, or any rule  
20 adopted under those chapters, or applicable health and safety standards  
21 and regulations. In addition to any penalty imposed under RCW  
22 49.26.016, the department may suspend or revoke any certificate issued  
23 under this chapter for a period of not less than six months upon the  
24 following grounds:

25 ~~((a))~~ (i) The certificate was obtained through error or fraud; or

26 ~~((b))~~ (ii) The holder thereof is judged to be incompetent to  
27 carry out the work for which the certificate was issued.

28 (b) Before any certificate may be denied, suspended, or revoked,  
29 the holder thereof shall be given written notice of the department's  
30 intention to do so, mailed by registered mail, return receipt  
31 requested, to the holder's last known address. The notice shall  
32 enumerate the allegations against such holder, and shall give him or  
33 her the opportunity to request a hearing before the department. At  
34 ~~((such))~~ the hearing, the department and the holder shall have  
35 opportunity to produce witnesses and give testimony.

36 (5) A denial, suspension, or revocation order may be appealed to  
37 the board of industrial insurance appeals within fifteen working days  
38 after the denial, suspension, or revocation order is entered. The

1 notice of appeal may be filed with the department or the board of  
2 industrial insurance appeals. The board of industrial insurance  
3 appeals shall hold the hearing in accordance with procedures  
4 established in RCW 49.17.140. Any party aggrieved by an order of the  
5 board of industrial insurance appeals may obtain superior court review  
6 in the manner provided in RCW 49.17.150.

7 (6) Each person certified under this chapter shall display, upon  
8 the request of an authorized representative of the department, valid  
9 identification issued by the department.

10 **Sec. 97.** RCW 49.26.115 and 1995 c 218 s 5 are each amended to read  
11 as follows:

12 Before working on an asbestos abatement project, a contractor shall  
13 obtain an asbestos contractor's certificate from the department and  
14 shall have in its employ at least one certified asbestos supervisor who  
15 is responsible for supervising all asbestos abatement projects  
16 undertaken by the contractor and for assuring compliance with all state  
17 laws and ~~((regulations))~~ rules regarding asbestos. The contractor  
18 shall apply for certification renewal every year. The department shall  
19 ensure that the expiration of the contractor's registration and the  
20 expiration of his or her asbestos contractor's certificate coincide.

21 **Sec. 98.** RCW 49.26.125 and 1989 c 154 s 8 are each amended to read  
22 as follows:

23 (1) Prenotification to the department under RCW 49.26.120 ~~((shall~~  
24 ~~not be))~~ is not required for:

25 ~~((+1))~~ (a)(i) Any asbestos project involving less than forty-eight  
26 square feet of surface area, or less than ten linear feet of pipe  
27 unless the surface area of the pipe is greater than forty-eight square  
28 feet. The person undertaking ~~((such a))~~ the project shall keep the  
29 reports, or statements, and written descriptions required under RCW  
30 49.26.013 and 49.26.120, which shall be available upon request of the  
31 department. Employees and employee representatives may request  
32 ~~((such))~~ the reports under RCW 49.26.013(2).

33 ~~((+b))~~ (ii) The director may waive the prenotification requirement  
34 upon written request of an owner for large-scale, on-going projects.  
35 In granting such a waiver, the director shall require the owner to  
36 provide prenotification if significant changes in personnel,

1 methodologies, equipment, work site, or work procedures occur or are  
2 likely to occur. The director shall further require annual resubmittal  
3 of ~~((such))~~ the notification.

4 ~~((e))~~ (iii) The director, upon review of an owner's reports, work  
5 practices, or other data available as a result of inspections, audits,  
6 or other authorized activities, may reduce the size threshold for  
7 prenotification required by this section. Such a change shall be based  
8 on the director's determination that significant problems in personnel,  
9 methodologies, equipment, work site, or work procedures are creating  
10 the potential for violations of this chapter or asbestos requirements  
11 under chapter 49.17 RCW. The new prenotification requirements shall be  
12 given in writing to the owner and ~~((shall))~~ remain in effect until  
13 modified or withdrawn in writing by the director.

14 ~~((2))~~ (b) Emergency projects.

15 ~~((a))~~ (i) As used in this section, "emergency project" means a  
16 project that was not planned and results from a sudden, unexpected  
17 event, and does not include operations that are necessitated by  
18 nonroutine failure of equipment or systems.

19 ~~((b))~~ (ii) Emergency projects ~~((which))~~ that disturb or release  
20 any material containing asbestos into the air shall be reported to the  
21 department within three working days after the commencement of the  
22 project in the manner otherwise required under this chapter. A notice  
23 shall be clearly posted adjacent to the work site describing the nature  
24 of the emergency project. The employees' collective bargaining  
25 representatives, or employee representatives, or designated  
26 representatives, if any, shall be notified of the emergency as soon as  
27 possible by the person undertaking the emergency project.

28 (2) Incremental phasing in the conduct or design of asbestos  
29 projects or otherwise designing or conducting asbestos projects of a  
30 size less than forty-eight square feet, or other threshold for  
31 exemption as provided under this section, with the intent of avoiding  
32 prenotification requirements is a violation of this chapter.

33 **Sec. 99.** RCW 49.26.130 and 2003 1st sp.s. c 25 s 924 are each  
34 amended to read as follows:

- 35 (1) The department shall administer this chapter.
- 36 (2) The director ~~((of the department))~~ shall adopt, in accordance

1 with chapters 34.05 and 49.17 RCW, rules necessary to carry out this  
2 chapter.

3 (3) The department shall prescribe fees for the issuance and  
4 renewal of certificates, including recertification, and the  
5 administration of examinations, and for the review of training courses.

6 (4) The asbestos account is (~~hereby~~) established in the state  
7 treasury. All fees collected under this chapter shall be deposited in  
8 the account. Moneys in the account shall be spent after appropriation  
9 only for costs incurred by the department in the administration and  
10 enforcement of this chapter. Disbursements from the account shall be  
11 on authorization of the director (~~of the department~~) or the  
12 director's designee.

13 (~~(5) During the 2003-2005 fiscal biennium, the legislature may  
14 transfer from the asbestos account to the state general fund such  
15 amounts as reflect the excess fund balance in the account.~~)

16 **Sec. 100.** RCW 49.28.010 and 2003 c 53 s 274 are each amended to  
17 read as follows:

18 (1) (~~Hereafter~~) Eight hours in any calendar day (~~shall~~)  
19 constitute a day's work on any work done for the state or any county or  
20 municipality within the state, subject to conditions (~~hereinafter~~)  
21 provided in this section.

22 (2) All work done by contract or subcontract on any building or  
23 improvements or works on roads, bridges, streets, alleys, or buildings  
24 for the state or any county or municipality within the state, shall be  
25 done under the provisions of this section. In cases of extraordinary  
26 emergency such as danger to life or property, the hours for work may be  
27 extended, but in such case the rate of pay for time employed in excess  
28 of eight hours of each calendar day, (~~shall be~~) is one and one-half  
29 times the rate of pay allowed for the same amount of time during eight  
30 hours' service. And for this purpose this section is made a part of  
31 all contracts, subcontracts, or agreements for work done for the state  
32 or any county or municipality within the state.

33 (3) Any contractor, subcontractor, or agent of a contractor or  
34 subcontractor, (~~foreman~~) foreperson, or employer, who violates this  
35 section is guilty of a misdemeanor and shall be fined a sum not less  
36 than twenty-five dollars nor more than two hundred dollars, or

1 imprisoned in the county jail for a period of not less than ten days  
2 nor more than ninety days, or both such fine and imprisonment, at the  
3 discretion of the court.

4 **Sec. 101.** RCW 49.28.040 and 1903 c 44 s 1 are each amended to read  
5 as follows:

6 ~~((That))~~ It is a part of the public policy of the state of  
7 Washington that all work "by contract or day labor done" for it, or any  
8 political subdivision created by its laws, shall be performed in work  
9 days of not more than eight hours each, except in cases of  
10 extraordinary emergency. No case of extraordinary emergency ~~((shall be  
11 construed to))~~ exists in any case where other labor can be found to  
12 take the place of labor ~~((which))~~ that has already been employed for  
13 eight hours in any calendar day.

14 **Sec. 102.** RCW 49.28.060 and 1903 c 44 s 3 are each amended to read  
15 as follows:

16 ~~((It is made the duty of))~~ All officers or agents authorized to  
17 contract for work to be done in behalf of the state of Washington, or  
18 any political subdivision created under its laws, ~~((to))~~ must stipulate  
19 in all contracts as provided for in RCW 49.28.040 through 49.28.060 ~~((  
20 and))~~. All such officers and agents, and all officers and agents  
21 entrusted with the supervision of work performed under such contracts,  
22 ~~((are authorized, and it is made their duty, to declare any contract  
23 canceled, the execution of which is not))~~ must cancel any contract that  
24 is not executed in accordance with the public policy of this state ~~((as  
25 herein declared))~~ described under this chapter.

26 **Sec. 103.** RCW 49.28.065 and 1988 c 121 s 1 are each amended to  
27 read as follows:

28 Notwithstanding the provisions of RCW 49.28.010 through 49.28.060,  
29 a contractor or subcontractor in any public works contract subject to  
30 those provisions may enter into an agreement with his or her employees  
31 in which the employees work up to ten hours in a calendar day. No such  
32 agreement may provide that the employees work ten-hour days for more  
33 than four calendar days a week. Any such agreement is subject to  
34 approval by the employees. ~~((The overtime provisions of RCW 49.28.020~~

1 ~~shall not apply to the hours, up to forty hours per week, worked~~  
2 ~~pursuant to agreements entered into under this section.))~~

3 **Sec. 104.** RCW 49.28.100 and 2003 c 53 s 276 are each amended to  
4 read as follows:

5 (1) It (~~shall be~~) is unlawful for any employer to permit any of  
6 his or her employees to operate on docks, in warehouses (~~and/or~~), or  
7 in or on other waterfront properties any power driven mechanical  
8 equipment for the purpose of loading cargo on, or unloading cargo from,  
9 ships, barges, or other watercraft, or of assisting in such loading or  
10 unloading operations, for a period in excess of twelve and one-half  
11 hours at any one time without giving (~~such~~) the person an interval of  
12 eight hours' rest(~~PROVIDED, HOWEVER, The provisions of this section~~  
13 ~~shall not be applicable~~). However, this section does not apply in  
14 cases of emergency, including fire, violent storms, leaking or sinking  
15 ships, or services required by the armed forces of the United States.

16 (2) Any person violating this section is guilty of a misdemeanor.

17 **Sec. 105.** RCW 49.28.120 and 1987 c 296 s 1 are each amended to  
18 read as follows:

19 (1)(a) Except as provided in subsection (2) of this section, every  
20 employer shall arrange employees' working hours on the day of a primary  
21 or election, general or special, so that each employee will have a  
22 reasonable time up to two hours available for voting during the hours  
23 the polls are open as provided by RCW (~~29.13.080~~) 29A.44.070.

24 (b) If an employee's work schedule does not give the employee two  
25 free hours during the time the polls are open, not including meal or  
26 rest breaks, the employer shall permit the employee to take a  
27 reasonable time up to two hours from the employee's work schedule for  
28 voting purposes. In such a case, the employer shall add this time to  
29 the time for which the employee is paid.

30 (2) (~~The provisions of~~) This section (~~apply~~) applies only if,  
31 during the period between the time an employee is informed of his or  
32 her work schedule for a primary or election day and the date of the  
33 primary or election, there is insufficient time for an absentee ballot  
34 to be secured for that primary or election.

1       **Sec. 106.** RCW 49.32.020 and 1933 ex.s. c 7 s 2 are each amended to  
2 read as follows:

3       ~~((In the interpretation of this chapter and in determining the~~  
4 ~~jurisdiction and authority of the courts of the state of Washington, as~~  
5 ~~such jurisdiction and authority are herein defined and limited, the~~  
6 ~~public policy of the state of Washington is hereby declared as follows:~~

7       ~~WHEREAS,~~) The legislature intends that this chapter be interpreted  
8 according to the public policy set forth in this section.

9       Under prevailing economic conditions, developed with the aid of  
10 governmental authority for owners of property to organize in the  
11 corporate and other forms of ownership association, the individual  
12 unorganized worker is commonly helpless to exercise actual liberty of  
13 contract and to protect his or her freedom of labor, and thereby to  
14 obtain acceptable terms and conditions of employment(~~(, wherefore,~~  
15 ~~though he)~~). Workers should be free to decline to associate with  
16 ~~((his))~~ their fellows, and it is necessary that ~~((he))~~ they have full  
17 freedom of association, self-organization, and designation of  
18 representatives of ~~((his))~~ their own choosing(~~(,)~~). Workers must be  
19 able to negotiate the terms and conditions of ~~((his))~~ their employment,  
20 and ~~((that he shall))~~ be free from interference, restraint, or coercion  
21 of employers of labor, or their agents, in ~~((the designation of such))~~  
22 designating representatives or in self-organization or in other  
23 concerted activities for the purpose of collective bargaining or other  
24 mutual aid or protections(~~(; therefore, the following definitions of,~~  
25 ~~and limitations upon, the jurisdiction and authority of the courts of~~  
26 ~~the state of Washington are hereby enacted))~~).

27       **Sec. 107.** RCW 49.32.030 and 1933 ex.s. c 7 s 3 are each amended to  
28 read as follows:

29       Any undertaking or promise, ~~((such))~~ as ~~((is))~~ described in this  
30 section, or any other undertaking or promise in conflict with the  
31 public policy declared in RCW 49.32.020, is ~~((hereby declared to be))~~  
32 contrary to the public policy of the state of Washington, ~~((shall))~~ not  
33 ~~((be))~~ enforceable in any court of the state of Washington, and ~~((shall~~  
34 ~~not afford any))~~ may not be the basis for ~~((the))~~ granting ~~((of))~~ legal  
35 or equitable relief by any ~~((such))~~ court(~~(, including specifically the~~  
36 ~~following:)~~). This includes every undertaking or promise ~~((hereafter))~~  
37 made, whether written or oral, express or implied, constituting or

1 contained in any contract or agreement of hiring or employment between  
2 any individual, firm, company, association, or corporation and any  
3 employee or prospective employee of the same, (~~whereby~~

4 ~~(1)~~) when either party to such contract or agreement undertakes or  
5 promises:

6 (1) Not to join, become, or remain a member of any labor  
7 organization or of any employer organization; or

8 (2) (~~Either party to such contract or agreement undertakes or~~  
9 ~~promises~~) That he or she will withdraw from an employment relation  
10 (~~in the event that~~) if he or she joins, becomes, or remains a member  
11 of any labor organization or of any employer organization.

12 **Sec. 108.** RCW 49.32.050 and 1933 ex.s. c 7 s 4 are each amended to  
13 read as follows:

14 No court of the state of Washington (~~shall have~~) has jurisdiction  
15 to issue any restraining order or temporary or permanent injunction in  
16 any case involving or growing out of any labor dispute or prohibit any  
17 person or persons participating or interested in such dispute (~~as~~  
18 ~~these terms are herein defined~~) from doing, whether singly or in  
19 concert, any of the following acts:

20 (1) Ceasing or refusing to perform any work or to remain in any  
21 relation of employment;

22 (2) Becoming or remaining a member of any labor organization or of  
23 any employer organization, regardless of any such undertaking or  
24 promise as is described in RCW 49.32.030;

25 (3) Paying or giving to, or withholding from, any person  
26 participating or interested in such labor dispute any strike or  
27 unemployment benefits or insurance or other money(~~s~~) or things of  
28 value;

29 (4) By all lawful means aiding any person participating or  
30 interested in any labor dispute who is being proceeded against in, or  
31 is prosecuting, any action or suit in any court of the United States or  
32 of any state;

33 (5) Giving publicity to the existence of, or the facts involved in,  
34 any labor dispute, whether by advertising, speaking, patrolling, or by  
35 any other method not involving fraud or violence;

36 (6) Assembling peaceably to act or to organize to act in promotion  
37 of their interests in a labor dispute;

1 (7) Advising or notifying any person of an intention to do any of  
2 the acts (~~heretofore~~) specified in this section;

3 (8) Agreeing with other persons to do or not to do any of the acts  
4 (~~heretofore~~) specified in this section; and

5 (9) Advising, urging, or otherwise causing or inducing without  
6 fraud or violence the acts (~~heretofore~~) specified in this section,  
7 regardless of any such undertaking or promise as is described in RCW  
8 49.32.030.

9 **Sec. 109.** RCW 49.32.090 and 1933 ex.s. c 7 s 11 are each amended  
10 to read as follows:

11 In all cases arising under this chapter in which a person (~~shall~~  
12 ~~be~~) is charged with contempt in a court of the state of Washington,  
13 the accused shall enjoy the right to a speedy and public trial by an  
14 impartial jury of the county (~~wherein~~) in which the contempt (~~shall~~  
15 ~~have been~~) was committed(~~:- PROVIDED, That~~). This right shall not  
16 apply to contempts committed in the presence of the court or so near  
17 thereto as to interfere directly with the administration of justice or  
18 to apply to the misbehavior, misconduct, or disobedience of any officer  
19 of the court in respect to the writs, orders, or process of the court.

20 **Sec. 110.** RCW 49.32.110 and 1933 ex.s. c 7 s 13 are each amended  
21 to read as follows:

22 (~~When used in this chapter, and for the purpose of this~~  
23 ~~chapter~~)

24 (1) A case shall be held to involve or to grow out of a labor  
25 dispute when the case involves persons who are engaged in the same  
26 industry, trade, or occupation; or have direct or indirect interests  
27 therein; or who are employees of the same employer; or who are members  
28 of the same or an affiliated organization of employers or employees;  
29 whether such dispute is (a) between one or more employers or  
30 associations of employers and one or more employees or associations of  
31 employees; (b) between one or more employers or associations of  
32 employers and one or more employers or association of employers; or (c)  
33 between one or more employees or association of employees and one or  
34 more employees or association of employees; or when the case involves  
35 any conflicting or competing interests in a "labor dispute" (~~as~~

1 ~~hereinafter defined~~) of "persons participating or interested" therein  
2 (~~as hereinafter defined~~)).

3 (2) For the purposes of this chapter:

4 (a) A ~~(person or association shall be held to be a)~~ "person  
5 participating or interested" means a person or association involved in  
6 a labor dispute ~~(if)~~ in which relief is sought against ~~(him or it)~~  
7 the person or association, and ~~(if he or it)~~ the person or  
8 association is engaged in the same industry, trade, craft, or  
9 occupation in which the dispute occurs, or has a direct or indirect  
10 interest therein or is a member, officer, or agent of any association  
11 composed in whole or in part of employers or employees engaged in such  
12 industry, trade, craft, or occupation.

13 ~~((3) The term)~~ (b) "Labor dispute" includes any controversy  
14 concerning terms or conditions of employment, or concerning the  
15 association or representation of persons in negotiating, fixing,  
16 maintaining, changing, or seeking to arrange terms or conditions of  
17 employment, regardless of whether or not the disputants stand in the  
18 proximate relation of employer and employee.

19 **Sec. 111.** RCW 49.36.015 and 1919 c 185 s 2 are each amended to  
20 read as follows:

21 No restraining order or injunction shall be granted by any court of  
22 this state, or any judge or judges thereof in any case between an  
23 employer and employee or between an employer and employees or between  
24 employees or between persons employed and persons seeking employment  
25 involving or growing out of a dispute concerning terms or conditions of  
26 employment, unless necessary to prevent irreparable damage to property  
27 or to a personal right or to a property right of the party making the  
28 application, for which injury there is no adequate remedy at law, and  
29 such petition must be in writing describing such damage or injury  
30 feared by the applicant, and sworn to by the applicant or his or her  
31 agent or attorney. No such restraining order or injunction ~~(shall)~~  
32 prohibits any such person or persons, whether singly or in concert,  
33 from terminating any relation of employment or from ceasing to perform  
34 any work or labor; or from paying or giving to, or withholding from any  
35 person engaged in such dispute, any strike benefits or other money~~(s)~~  
36 or things of value; or from doing any act or thing ~~(which)~~ that might

1 lawfully be done in the absence of such dispute by any party thereto;  
2 nor shall any of the acts specified in this section be considered or  
3 held to be illegal or unlawful in any court of the state.

4 **Sec. 112.** RCW 49.38.010 and 1984 c 89 s 1 are each amended to read  
5 as follows:

6 ~~((Unless the context clearly requires otherwise,))~~ The definitions  
7 in this section apply throughout this chapter unless the context  
8 clearly requires otherwise.

9 (1) "Department" means the department of labor and industries.

10 (2) "Theatrical enterprise" means the production of any circus,  
11 vaudeville, carnival, revue, variety show, musical comedy, operetta,  
12 opera, drama, endurance contest, marathon, walkathon, or any other  
13 entertainment event where persons are a part of the enterprise's  
14 presentation. "Theatrical enterprise" does not include a program of a  
15 radio or television station operating pursuant to a license issued by  
16 the federal communications commission or any event produced by a  
17 nonprofit cultural or artistic organization that has been located in a  
18 community for at least two years.

19 **Sec. 113.** RCW 49.40.010 and 1919 c 191 s 1 are each amended to  
20 read as follows:

21 For the purposes of this chapter ~~((the term))~~, "seasonal labor"  
22 ~~((shall))~~ includes all work performed by any person employed for a  
23 period of time greater than one month and where the wages for ~~((such))~~  
24 the work are not to be paid at any fixed interval of time, but at the  
25 termination of ~~((such))~~ employment, and where ~~((such))~~ the person is  
26 hired within this state for work to be performed outside the state and  
27 the wages earned during ~~((said))~~ the employment are to be paid in this  
28 state at the termination of ~~((such))~~ employment ~~((:—PROVIDED, That))~~.  
29 However, this chapter shall not apply to wages earned by seamen or  
30 other persons where the payment of their wages is regulated by federal  
31 statutes.

32 **Sec. 114.** RCW 49.40.030 and 1919 c 191 s 3 are each amended to  
33 read as follows:

34 Every employee who with intent to defraud ~~((shall have))~~ has  
35 secured advances of money or supplies under a contract for reasonable

1 labor and who with intent to defraud (~~shall~~) willfully fails to  
2 perform sufficient labor to compensate for such advances and supplies  
3 made under such contract (~~shall be~~) is guilty of a gross misdemeanor.

4 **Sec. 115.** RCW 49.40.040 and 1919 c 191 s 4 are each amended to  
5 read as follows:

6 Upon the written petition of either the employer or the employee  
7 setting forth in ordinary and concise language the facts and questions  
8 in dispute, the director of labor and industries or the director's  
9 designee shall(~~(, in person or by his duly authorized deputy, and is~~  
10 ~~hereby authorized to)~~) hear and determine all disputes concerning wages  
11 earned at seasonal labor, and allow or reject deductions made from such  
12 wages for money(~~s~~) advanced or supplies furnished before the wages  
13 are earned for money paid or supplies furnished during the season or  
14 for money paid to third persons upon the written order of the employee.

15 **Sec. 116.** RCW 49.40.050 and 1919 c 191 s 5 are each amended to  
16 read as follows:

17 Upon the filing of any such petition, the director of labor and  
18 industries shall notify the other party to the dispute of the time and  
19 place when and where (~~such~~) the petition will be heard, and may set  
20 (~~said~~) the petition for a hearing before a regularly appointed deputy  
21 at (~~such~~) a place in the state as he (~~shall~~) or she determines is  
22 most convenient for the parties, and the director or his or her deputy  
23 (~~shall have power and authority to~~) may issue subpoenas to compel the  
24 attendance of witnesses and the production of books, papers, and  
25 records at (~~such~~) the hearing, and to administer oaths. Obedience to  
26 (~~such~~) the subpoenas shall be enforced by the courts of the county  
27 where (~~such~~) the hearing is held.

28 **Sec. 117.** RCW 49.40.060 and 1919 c 191 s 6 are each amended to  
29 read as follows:

30 The director of labor and industries, or his or her deputy holding  
31 the hearing shall, after (~~such~~) the hearing, determine the amount due  
32 from the employer to the employee, and shall make findings of fact and  
33 an award in accordance therewith, which findings and award shall be  
34 filed in the office of the director and a copy thereof served upon the

1 employer and upon the employee by registered mail directed to their  
2 last known (~~(post-office))~~ mailing address.

3 **Sec. 118.** RCW 49.44.010 and 1899 c 23 s 1 are each amended to read  
4 as follows:

5 Every person in this state who (~~(shall))~~ willfully and maliciously,  
6 sends or delivers, or makes or causes to be made, for the purpose of  
7 being delivered or sent or part with the possession of any paper,  
8 letter, or writing, with or without name signed thereto, or signed with  
9 a fictitious name, or with any letter, mark, or other designation, or  
10 publishes or causes to be published any statement for the purpose of  
11 preventing any other person from obtaining employment in this state or  
12 elsewhere, and every person who (~~(shall))~~ willfully and maliciously  
13 "blacklists" or causes to be "blacklisted" any person or persons, by  
14 writing, printing, or publishing, or causing the same to be done, the  
15 name, or mark, or designation representing the name of any person in  
16 any paper, pamphlet, circular, or book, together with any statement  
17 concerning persons so named, or publishes or causes to be published  
18 that any person is a member of any secret organization, for the purpose  
19 of preventing (~~(such))~~ the person from securing employment, or who  
20 (~~(shall))~~ willfully and maliciously makes or issues any statement or  
21 paper that will tend to influence or prejudice the mind of any employer  
22 against the person of (~~(such))~~ the person seeking employment, or any  
23 person who (~~(shall-do))~~ does any of the things mentioned in this  
24 section for the purpose of causing the discharge of any person employed  
25 by any railroad or other company, corporation, individual, or  
26 individuals, shall, on conviction thereof, be adjudged guilty of a  
27 misdemeanor and be punished by a fine of not less than one hundred  
28 dollars nor more than one thousand dollars, or by imprisonment in the  
29 county jail for not less than ninety days nor more than one year, or by  
30 both (~~(such))~~ a fine and imprisonment.

31 **Sec. 119.** RCW 49.44.020 and 1909 c 249 s 424 are each amended to  
32 read as follows:

33 Every person who (~~(shall))~~ gives, offers, or promises, directly or  
34 indirectly, any compensation, gratuity, or reward to any duly  
35 constituted representative of a labor organization, with intent to  
36 influence him or her in respect to any of his or her acts, decisions,

1 or other duties as such representative, or to induce him or her to  
2 prevent or cause a strike by the employees of any person or  
3 corporation, (~~shall be~~) is guilty of a gross misdemeanor.

4 **Sec. 120.** RCW 49.44.030 and 1909 c 249 s 425 are each amended to  
5 read as follows:

6 (~~Every person who, being~~) A person guilty of a gross misdemeanor  
7 if he or she is the duly constituted representative of a labor  
8 organization(~~, shall~~) and asks for or receives, directly or  
9 indirectly, any compensation, gratuity, or reward, or any promise  
10 thereof, (~~upon any agreement or understanding that~~) to influence any  
11 of his or her acts, decisions, or other duties as such representative,  
12 or (~~any act~~) to prevent or cause a strike of the employees of any  
13 person or corporation (~~shall be influenced thereby, shall be guilty of~~  
14 ~~a gross misdemeanor~~)).

15 **Sec. 121.** RCW 49.44.040 and 1909 c 249 s 371 are each amended to  
16 read as follows:

17 Every person who (~~shall~~) obtains employment or appointment to any  
18 office or place of trust, by color or aid of any false or forged letter  
19 or certificate of recommendation, (~~shall be~~) is guilty of a  
20 misdemeanor.

21 **Sec. 122.** RCW 49.44.050 and 1909 c 249 s 372 are each amended to  
22 read as follows:

23 Every employment agent or broker who, with intent to influence the  
24 action of any person thereby, (~~shall~~) misstates or misrepresents  
25 verbally, or in any writing or advertisement, any material matter  
26 relating to the demand for labor, the conditions under which any labor  
27 or service is to be performed, the duration thereof, or the wages to be  
28 paid therefor, (~~shall be~~) is guilty of a misdemeanor.

29 **Sec. 123.** RCW 49.44.060 and 1909 c 249 s 426 are each amended to  
30 read as follows:

31 Every person who (~~shall~~) gives, offers, or promises, directly or  
32 indirectly, any compensation, gratuity, or reward to any agent,  
33 employee, or servant of any person or corporation, with intent to

1 influence his or her action in relation to his or her principal's,  
2 employer's, or master's business, (~~shall be~~) is guilty of a gross  
3 misdemeanor.

4 **Sec. 124.** RCW 49.44.080 and 1909 c 249 s 281 are each amended to  
5 read as follows:

6 Every person who (~~shall~~) willfully and maliciously, either alone  
7 or in combination with others, breaks a contract of service or  
8 employment, knowing or having reasonable cause to believe that the  
9 consequence of his or her so doing will be to endanger human life or to  
10 cause grievous bodily injury, or to expose valuable property to  
11 destruction or serious injury, (~~shall be~~) is guilty of a misdemeanor.

12 **Sec. 125.** RCW 49.44.090 and 1993 c 510 s 24 are each amended to  
13 read as follows:

14 (1) It (~~shall be~~) is an unfair practice:

15 ~~((1))~~ (a) For an employer or licensing agency, because an  
16 individual is forty years of age or older, to refuse to hire or employ  
17 or license or to bar or to terminate from employment (~~such~~) the  
18 individual, or to discriminate against (~~such~~) the individual in  
19 promotion, compensation, or in terms, conditions, or privileges of  
20 employment(~~PROVIDED, That~~). However, employers or licensing  
21 agencies may establish reasonable minimum and/or maximum age limits  
22 with respect to candidates for positions of employment, which positions  
23 are of such a nature as to require extraordinary physical effort,  
24 endurance, condition, or training, subject to the approval of the  
25 executive director of the Washington state human rights commission or  
26 the director of labor and industries through the division of industrial  
27 relations.

28 ~~((2))~~ (b) For any employer, licensing agency, or employment  
29 agency to print or circulate or cause to be printed or circulated any  
30 statement, advertisement, or publication, or to use any form of  
31 application for employment or to make any inquiry in connection with  
32 prospective employment, which expresses any limitation, specification,  
33 or discrimination respecting individuals forty years of age or older(~~PROVIDED, That nothing herein shall~~). This subsection does not forbid  
34 a requirement of disclosure of birth date upon any form of application  
35

1 for employment or by the production of a birth certificate or other  
2 sufficient evidence of the applicant's true age after an employee is  
3 hired.

4 (2) Nothing contained in this section or in RCW 49.60.180 as to age  
5 shall be construed to prevent the termination of the employment of any  
6 person who is physically unable to perform his or her duties or to  
7 affect the retirement policy or system of any employer where (~~such~~)  
8 the policy or system is not merely a subterfuge to evade the purposes  
9 of this section; nor shall anything in this section or in RCW 49.60.180  
10 be deemed to preclude the varying of insurance coverages according to  
11 an employee's age; nor shall this section be construed as applying to  
12 any state, county, or city law enforcement agencies, or as superseding  
13 any law fixing or authorizing the establishment of reasonable minimum  
14 or maximum age limits with respect to candidates for certain positions  
15 in public employment (~~which~~) that are of such a nature as to require  
16 extraordinary physical effort, or (~~which~~) that for other reasons  
17 warrant consideration of age factors.

18 **Sec. 126.** RCW 49.44.100 and 2003 c 53 s 277 are each amended to  
19 read as follows:

20 (1) It (~~shall be~~) is unlawful for any person, firm, or  
21 corporation not directly involved in a labor strike or lockout to  
22 recruit and bring into this state from outside this state any person or  
23 persons for employment, or to secure or offer to secure for such person  
24 or persons any employment, when the purpose of such recruiting,  
25 securing, or offering to secure employment is to have such persons take  
26 the place in employment of employees in a business owned by a person,  
27 firm, or corporation involved in a labor strike or lockout, or to have  
28 such persons act as pickets of a business owned by a person, firm, or  
29 corporation where a labor strike or lockout exists(~~PROVIDED,~~  
30 ~~That~~). This section (~~shall~~) does not apply to activities and  
31 services offered by or through the Washington employment security  
32 department.

33 (2) Any person violating this section is guilty of a gross  
34 misdemeanor.

35 **Sec. 127.** RCW 49.44.140 and 1979 ex.s. c 177 s 2 are each amended  
36 to read as follows:

1 (1) A provision in an employment agreement (~~which~~) that provides  
2 that an employee shall assign or offer to assign any of the employee's  
3 rights in an invention to the employer does not apply to an invention  
4 for which no equipment, supplies, facilities, or trade secret  
5 information of the employer was used and which was developed entirely  
6 on the employee's own time, unless (a) the invention relates (i)  
7 directly to the business of the employer, or (ii) to the employer's  
8 actual or demonstrably anticipated research or development, or (b) the  
9 invention results from any work performed by the employee for the  
10 employer. Any provision (~~which~~) that purports to apply to such an  
11 invention is to that extent against the public policy of this state and  
12 is to that extent void and unenforceable.

13 (2) An employer shall not require a provision made void and  
14 unenforceable by subsection (1) of this section as a condition of  
15 employment or continuing employment.

16 (3) If an employment agreement entered into after September 1,  
17 1979, contains a provision requiring the employee to assign any of the  
18 employee's rights in any invention to the employer, the employer must  
19 also, at the time the agreement is made, provide a written notification  
20 to the employee that the agreement does not apply to an invention for  
21 which no equipment, supplies, facility, or trade secret information of  
22 the employer was used and which was developed entirely on the  
23 employee's own time, unless (a) the invention relates (i) directly to  
24 the business of the employer, or (ii) to the employer's actual or  
25 demonstrably anticipated research or development, or (b) the invention  
26 results from any work (~~performed~~ [performed]) performed by the  
27 employee for the employer.

28 **Sec. 128.** RCW 49.46.020 and 1999 c 1 s 1 are each amended to read  
29 as follows:

30 (1) (~~Until January 1, 1999, every employer shall pay to each of~~  
31 ~~his or her employees who has reached the age of eighteen years wages at~~  
32 ~~a rate of not less than four dollars and ninety cents per hour.~~

33 (2) ~~Beginning January 1, 1999, and until January 1, 2000, every~~  
34 ~~employer shall pay to each of his or her employees who has reached the~~  
35 ~~age of eighteen years wages at a rate of not less than five dollars and~~  
36 ~~seventy cents per hour.~~

1       ~~(3) Beginning January 1, 2000, and until January 1, 2001, every~~  
2 ~~employer shall pay to each of his or her employees who has reached the~~  
3 ~~age of eighteen years wages at a rate of not less than six dollars and~~  
4 ~~fifty cents per hour.~~

5       ~~(4)(a) Beginning on January 1, 2001, and each following))~~ (a) On  
6 January 1st of each year, as set forth under (b) of this subsection,  
7 every employer shall pay to each of his or her employees who has  
8 reached the age of eighteen years wages at a rate of not less than the  
9 amount established under (b) of this subsection.

10       ~~(b) ((On September 30, 2000, and on each following))~~ On September  
11 30th of each year, the department of labor and industries shall  
12 calculate an adjusted minimum wage rate to maintain employee purchasing  
13 power by increasing the current year's minimum wage rate by the rate of  
14 inflation. The adjusted minimum wage rate shall be calculated to the  
15 nearest cent using the consumer price index for urban wage earners and  
16 clerical workers, CPI-W, or a successor index, for the twelve months  
17 prior to each September 1st as calculated by the United States  
18 department of labor. Each adjusted minimum wage rate calculated under  
19 this subsection (~~((4)(b))~~) takes effect on the following January 1st.

20       ~~((5))~~ (2) The director shall by (~~(regulation))~~ rule establish the  
21 minimum wage for employees under the age of eighteen years.

22       **Sec. 129.** RCW 49.46.040 and 1959 c 294 s 4 are each amended to  
23 read as follows:

24       (1) The director or his or her designated representatives may  
25 investigate and gather data regarding the wages, hours, and other  
26 conditions and practices of employment in any industry subject to this  
27 chapter, and may enter and inspect such places and such records (and  
28 make such transcriptions thereof), question such employees, and  
29 investigate such facts, conditions, practices, or matters as he (~~(may))~~  
30 or she deems necessary or appropriate to determine whether any person  
31 has violated any provision of this chapter, or which may aid in the  
32 enforcement of (~~(the provisions of))~~) this chapter.

33       (2) With the consent and cooperation of federal agencies charged  
34 with the administration of federal labor laws, the director may, for  
35 the purpose of carrying out his or her functions and duties under this  
36 chapter, utilize the services of federal agencies and their employees

1 and, notwithstanding any other provision of law, may reimburse ~~((such))~~  
2 the federal agencies and their employees for services rendered for such  
3 purposes.

4 (3) Every employer subject to ~~((any provision of))~~ this chapter or  
5 of any order issued under this chapter shall make, keep, and preserve  
6 ~~((such))~~ the records of the persons employed by him or her and of the  
7 wages, hours, and other conditions and practices of employment  
8 maintained by him or her, and shall preserve ~~((such))~~ the records for  
9 such periods of time, and shall make reports therefrom to the director  
10 as he ~~((shall))~~ or she prescribes by ~~((regulation))~~ rule as necessary  
11 or appropriate for the enforcement of ~~((the provisions of))~~ this  
12 chapter or the ~~((regulations thereunder))~~ rules adopted under this  
13 chapter.

14 (4) The director ~~((is authorized to make such regulations))~~ may  
15 adopt rules regulating, restricting, or prohibiting industrial homework  
16 ~~((as are necessary or appropriate))~~ to prevent the circumvention or  
17 evasion of and to safeguard the minimum wage rate prescribed in this  
18 chapter~~((, and all existing regulations of the director relating to~~  
19 ~~industrial homework are hereby continued in full force and effect))~~.

20 **Sec. 130.** RCW 49.46.060 and 1959 c 294 s 6 are each amended to  
21 read as follows:

22 The director, to the extent necessary in order to prevent  
23 curtailment of opportunities for employment, shall ~~((by regulations))~~  
24 in rule provide for (1) the employment of learners, ~~((of))~~ apprentices,  
25 and ~~((of))~~ messengers employed primarily in delivering letters and  
26 messages, under special certificates issued pursuant to ~~((regulations))~~  
27 rules of the director, at ~~((such))~~ wages lower than the minimum wage  
28 applicable under RCW 49.46.020 and subject to such limitations as to  
29 time, number, proportion, and length of service as the director  
30 ~~((shall))~~ prescribes, and (2) the employment of individuals whose  
31 earning capacity is impaired by age or physical or mental deficiency or  
32 injury, under special certificates issued by the director, at ~~((such))~~  
33 wages lower than the minimum wage applicable under RCW 49.46.020 and  
34 for ~~((such))~~ a period as shall be fixed in such certificates.

35 **Sec. 131.** RCW 49.46.070 and 1959 c 294 s 7 are each amended to  
36 read as follows:

1 Every employer subject to ~~((any provision of))~~ this chapter or of  
2 any ~~((regulation issued))~~ rule adopted under this chapter shall make,  
3 and keep in or about the premises ~~((wherein))~~ where any employee is  
4 employed, a record of the name, address, and occupation of each of his  
5 or her employees, the rate of pay, and the amount paid each pay period  
6 to each ~~((such))~~ employee, the hours worked each day and each work week  
7 by ~~((such))~~ the employee, and ~~((such))~~ other information ~~((as))~~ the  
8 director ~~((shall))~~ prescribes by ~~((regulation as necessary or~~  
9 ~~appropriate))~~ rule for the enforcement of ~~((the provisions of))~~ this  
10 chapter or of the ~~((regulations thereunder))~~ rules adopted under this  
11 chapter. ~~((Such))~~ Records shall be open for inspection or  
12 transcription by the director or his or her authorized representative  
13 at any reasonable time. Every ~~((such))~~ employer shall furnish to the  
14 director or to his or her authorized representative on demand a sworn  
15 statement of ~~((such))~~ the records and information upon forms prescribed  
16 or approved by the director.

17 **Sec. 132.** RCW 49.46.080 and 1983 c 3 s 157 are each amended to  
18 read as follows:

19 (1) As new ~~((regulations))~~ rules or changes or modification of  
20 previously established ~~((regulations))~~ rules are proposed, the director  
21 shall call a public hearing for the purpose of the consideration and  
22 establishment of ~~((such regulations))~~ the rules following the  
23 procedures used in the ~~((promulgation))~~ adoption of standards of safety  
24 under chapter 49.17 RCW.

25 (2) Any interested party may obtain a review of the director's  
26 findings and order in the superior court of the county of the  
27 petitioners' residence by filing in such court within sixty days after  
28 the date of publication of ~~((such regulation))~~ the rule a written  
29 petition praying that the ~~((regulation))~~ rule be modified or set aside.  
30 A copy of ~~((such))~~ the petition shall be served upon the director. The  
31 finding of facts, if supported by evidence, shall be conclusive upon  
32 the court. The court shall determine whether the ~~((regulation))~~ rule  
33 is in accordance with law. If the court determines that ~~((such~~  
34 ~~regulation))~~ the rule is not in accordance with law, it shall remand  
35 the case to the director with directions to modify or revoke ~~((such~~  
36 ~~regulation))~~ the rule. If application is made to the court for leave  
37 to adduce additional evidence by any aggrieved party, ~~((such))~~ the

1 party shall show to the satisfaction of the court that ((~~such~~)) the  
2 additional evidence is material, and that there were reasonable grounds  
3 for the failure to adduce ((~~such~~)) the evidence before the director.  
4 If the court finds that ((~~such~~)) the evidence is material and that  
5 reasonable grounds exist for failure of the aggrieved party to adduce  
6 ((~~such~~)) the evidence in prior proceedings, the court may remand the  
7 case to the director with directions that ((~~such~~)) the additional  
8 evidence be taken before the director. The director may modify the  
9 findings and conclusions, in whole or in part, by reason of ((~~such~~))  
10 the additional evidence.

11 (3) The judgment and decree of the court ((~~shall be~~)) is final  
12 except that it ((~~shall be~~)) is subject to review by the supreme court  
13 or the court of appeals as in other civil cases.

14 (4) The proceedings under this section shall not, unless  
15 specifically ordered by the court, operate as a stay of an  
16 administrative ((~~regulation~~)) rule issued under ((~~the provisions of~~))  
17 this chapter. The court shall not grant any stay of an administrative  
18 ((~~regulation~~)) rule unless the person complaining of ((~~such regulation~~  
19 ~~shall~~)) the rule files in the court an undertaking with a surety or  
20 sureties satisfactory to the court for the payment to the employees  
21 affected by the ((~~regulation~~)) rule, in the event ((~~such regulation~~))  
22 the rule is affirmed, of the amount by which the compensation such  
23 employees are entitled to receive under the ((~~regulation~~)) rule exceeds  
24 the compensation they actually receive while ((~~such~~)) the stay is in  
25 effect.

26 **Sec. 133.** RCW 49.46.090 and 1959 c 294 s 9 are each amended to  
27 read as follows:

28 (1) Any employer who pays any employee less than wages to which  
29 ((~~such~~)) the employee is entitled under or by virtue of this chapter,  
30 ((~~shall be~~)) is liable to ((~~such~~)) the employee affected for the full  
31 amount of ((~~such~~)) the wage rate, less any amount actually paid to  
32 ((~~such~~)) the employee by the employer, and for costs and ((~~such~~))  
33 reasonable attorney's fees ((~~as may be~~)) allowed by the court. Any  
34 agreement between ((~~such~~)) the employee and the employer to work for  
35 less than ((~~such~~)) the wage rate shall be no defense to ((~~such~~)) the  
36 action.

1 (2) At the written request of any employee paid less than the wages  
2 to which he or she is entitled under or by virtue of this chapter, the  
3 director may take an assignment under this chapter or as provided in  
4 RCW 49.48.040 of such wage claim in trust for the assigning employee  
5 and may bring any legal action necessary to collect ~~((such))~~ the claim,  
6 and the employer shall be required to pay the costs and ~~((such))~~  
7 reasonable attorney's fees ~~((as may be))~~ allowed by the court.

8 **Sec. 134.** RCW 49.46.100 and 1959 c 294 s 10 are each amended to  
9 read as follows:

10 (1) Any employer who hinders or delays the director or his or her  
11 authorized representatives in the performance of his or her duties in  
12 the enforcement of this chapter, or refuses to admit the director or  
13 his or her authorized representatives to any place of employment, or  
14 fails to make, keep, and preserve any records as required under ~~((the~~  
15 ~~provisions of))~~ this chapter, or falsifies any such record, or refuses  
16 to make any record accessible to the director or his or her authorized  
17 representatives upon demand, or refuses to furnish a sworn statement of  
18 such record or any other information required for the proper  
19 enforcement of this chapter to the director or his or her authorized  
20 representatives upon demand, or pays or agrees to pay wages at a rate  
21 less than the rate applicable under this chapter, or otherwise violates  
22 any provision of this chapter or of any ~~((regulation issued))~~ rule  
23 adopted under this chapter ~~((shall be deemed))~~ is in violation of this  
24 chapter and ~~((shall, upon conviction therefor, be))~~ is guilty of a  
25 gross misdemeanor.

26 (2) Any employer who discharges or in any other manner  
27 discriminates against any employee because ~~((such))~~ the employee has  
28 made any complaint to his or her employer, to the director, or ~~((his))~~  
29 to the director's authorized representatives that ~~((he))~~ the employee  
30 has not been paid wages in accordance with ~~((the provisions of))~~ this  
31 chapter, ~~((or))~~ that the employer has violated ~~((any provision of))~~  
32 this chapter, or because ~~((such))~~ the employee has caused to be  
33 instituted or is about to cause to be instituted any proceeding under  
34 or related to this chapter, or because ~~((such))~~ the employee has  
35 testified or is about to testify in any such proceeding ~~((shall be~~  
36 ~~deemed))~~ is in violation of this chapter and ~~((shall))~~, upon conviction  
37 therefor, ~~((be))~~ is guilty of a gross misdemeanor.

1       **Sec. 135.** RCW 49.46.110 and 1959 c 294 s 11 are each amended to  
2 read as follows:

3       Nothing in this chapter (~~((shall be deemed to))~~) interferes with,  
4 impedes, or in any way diminishes the right of employees to bargain  
5 collectively with their employers through representatives of their own  
6 choosing in order to establish wages or other conditions of work in  
7 excess of the applicable minimum under (~~((the provisions of))~~) this  
8 chapter.

9       **Sec. 136.** RCW 49.46.130 and 1998 c 239 s 2 are each amended to  
10 read as follows:

11       (1) Except as otherwise provided in this section, no employer shall  
12 employ any of his or her employees for a work week longer than forty  
13 hours unless (~~((such))~~) the employee receives compensation for his or her  
14 employment in excess of the hours above specified at a rate not less  
15 than one and one-half times the regular rate at which he or she is  
16 employed.

17       (2) This section does not apply to:

18       (a) Any person exempted pursuant to RCW 49.46.010(5). The payment  
19 of compensation or provision of compensatory time off in addition to a  
20 salary shall not be a factor in determining whether a person is  
21 exempted under RCW 49.46.010(5)(c);

22       (b) Employees who request compensating time off in lieu of overtime  
23 pay;

24       (c) Any individual employed as a seaman whether or not the seaman  
25 is employed on a vessel other than an American vessel;

26       (d) Seasonal employees who are employed at concessions and  
27 recreational establishments at agricultural fairs, including those  
28 seasonal employees employed by agricultural fairs, within the state  
29 provided that the period of employment for any seasonal employee at any  
30 or all agricultural fairs does not exceed fourteen working days a year;

31       (e) Any individual employed as a motion picture projectionist if  
32 that employee is covered by a contract or collective bargaining  
33 agreement which regulates hours of work and overtime pay;

34       (f) An individual employed as a truck or bus driver who is subject  
35 to the provisions of the federal motor carrier act (49 U.S.C. Sec. 3101  
36 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system

1 under which the truck or bus driver is paid includes overtime pay,  
2 reasonably equivalent to that required by this subsection, for working  
3 longer than forty hours per week;

4 (g) Any individual employed (i) on a farm, in the employ of any  
5 person, in connection with the cultivation of the soil, or in  
6 connection with raising or harvesting any agricultural or horticultural  
7 commodity, including raising, shearing, feeding, caring for, training,  
8 and management of livestock, bees, poultry, and furbearing animals and  
9 wildlife, or in the employ of the owner or tenant or other operator of  
10 a farm in connection with the operation, management, conservation,  
11 improvement, or maintenance of such farm and its tools and equipment;  
12 or (ii) in packing, packaging, grading, storing, or delivering to  
13 storage, or to market or to a carrier for transportation to market, any  
14 agricultural or horticultural commodity; or (iii) commercial canning,  
15 commercial freezing, or any other commercial processing, or with  
16 respect to services performed in connection with the cultivation,  
17 raising, harvesting, and processing of oysters or in connection with  
18 any agricultural or horticultural commodity after its delivery to a  
19 terminal market for distribution for consumption;

20 (h) Any industry in which federal law provides for an overtime  
21 payment based on a work week other than forty hours. However, the  
22 provisions of the federal law regarding overtime payment based on a  
23 work week other than forty hours shall nevertheless apply to employees  
24 covered by this section without regard to the existence of actual  
25 federal jurisdiction over the industrial activity of the particular  
26 employer within this state. For the purposes of this subsection,  
27 "industry" means a trade, business, industry, or other activity, or  
28 branch, or group thereof, in which individuals are gainfully employed  
29 (section 3(h) of the fair labor standards act of 1938, as amended  
30 (~~((Public Law))~~ P.L. 93-259));

31 (i) Any hours worked by an employee of a carrier by air subject to  
32 the provisions of subchapter II of the railway labor act (45 U.S.C.  
33 Sec. 181 et seq.), when such hours are voluntarily worked by the  
34 employee pursuant to a shift-trading practice under which the employee  
35 has the opportunity in the same or in other work weeks to reduce hours  
36 worked by voluntarily offering a shift for trade or reassignment.

37 (3) No employer (~~(shall be)~~) is deemed to have violated subsection

1 (1) of this section by employing any employee of a retail or service  
2 establishment for a work week in excess of the applicable work week  
3 specified in subsection (1) of this section if:

4 (a) The regular rate of pay of the employee is in excess of one and  
5 one-half times the minimum hourly rate required under RCW 49.46.020;  
6 and

7 (b) More than half of the employee's compensation for a  
8 representative period, of not less than one month, represents  
9 commissions on goods or services.

10 In determining the proportion of compensation representing  
11 commissions, all earnings resulting from the application of a bona fide  
12 commission rate is to be deemed commissions on goods or services  
13 without regard to whether the computed commissions exceed the draw or  
14 guarantee.

15 (4) No employer of commissioned salespeople primarily engaged in  
16 the business of selling automobiles, trucks, recreational vessels,  
17 recreational vessel trailers, recreational vehicle trailers,  
18 recreational campers, manufactured housing, or farm implements to  
19 ultimate purchasers shall violate subsection (1) of this section with  
20 respect to such commissioned salespeople if the commissioned  
21 salespeople are paid the greater of:

22 (a) Compensation at the hourly rate, which may not be less than the  
23 rate required under RCW 49.46.020, for each hour worked up to forty  
24 hours per week, and compensation of one and one-half times that hourly  
25 rate for all hours worked over forty hours in one week; or

26 (b) A straight commission, a salary plus commission, or a salary  
27 plus bonus applied to gross salary.

28 (5) No public agency (~~shall be~~) is deemed to have violated  
29 subsection (1) of this section with respect to the employment of any  
30 employee in fire protection activities or any employee in law  
31 enforcement activities (including security personnel in correctional  
32 institutions) if: (a) In a work period of twenty-eight consecutive  
33 days the employee receives for tours of duty which in the aggregate  
34 exceed two hundred forty hours; or (b) in the case of such an employee  
35 to whom a work period of at least seven but less than twenty-eight days  
36 applies, in his or her work period the employee receives for tours of  
37 duty which in the aggregate exceed a number of hours which bears the  
38 same ratio to the number of consecutive days in his or her work period

1 as two hundred forty hours bears to twenty-eight days; compensation at  
2 a rate not less than one and one-half times the regular rate at which  
3 he or she is employed.

4 **Sec. 137.** RCW 49.48.010 and 1971 ex.s. c 55 s 1 are each amended  
5 to read as follows:

6 (1) When any employee ~~((shall))~~ ceases to work for an employer,  
7 whether by discharge or by voluntary withdrawal, the wages due ~~((him))~~  
8 the employee on account of his or her employment shall be paid to  
9 ~~((him))~~ the employee at the end of the established pay period(~~(+~~  
10 ~~PROVIDED, HOWEVER, That this paragraph shall))~~).

11 (2) Subsection (1) of this section does not apply when workers are  
12 engaged in an employment that normally involves working for several  
13 employers in the same industry interchangeably, and the several  
14 employers or some of them cooperate to establish a plan for the weekly  
15 payment of wages at a central place or places and in accordance with a  
16 unified schedule of paydays providing for at least one payday each  
17 week(~~(; but this subsection shall not apply to any such plan))~~).

18 However, such plan may not take effect until ten days after notice of  
19 their intention to set up ~~((such a))~~ the plan ~~((shall have))~~ has been  
20 given to the director of labor and industries by the employers who  
21 cooperate to establish the plan(~~(; and))~~). Having once been  
22 established, no such plan can be abandoned except after notice of their  
23 intention to abandon such plan has been given to the director of labor  
24 and industries by the employers intending to abandon the plan(~~(+~~  
25 ~~PROVIDED FURTHER, That))~~). The duty to pay an employee forthwith shall  
26 not apply if the labor-management agreement under which the employee  
27 has been employed provides otherwise.

28 (3) It ~~((shall be))~~ is unlawful for any employer to withhold or  
29 divert any portion of an employee's wages unless the deduction is:

30 ~~((+1))~~ (a) Required by state or federal law; ~~((or~~  
31 ~~+2))~~ (b) Specifically agreed upon orally or in writing by the  
32 employee and employer; or

33 ~~((+3))~~ (c) For medical, surgical, or hospital care or service,  
34 pursuant to ~~((any))~~ rule ~~((or regulation: PROVIDED, HOWEVER, That))~~ if  
35 the deduction is openly, clearly, and in due course recorded in the  
36 employer's books and records.

1 ((Paragraph three)) (4) Subsection (3) of this section ((shall not  
2 be construed to)) does not affect the right of any employer or former  
3 employer to sue upon or collect any debt owed to ((said)) the employer  
4 or former employer by his or her employees or former employees.

5 **Sec. 138.** RCW 49.48.030 and 1971 ex.s. c 55 s 3 are each amended  
6 to read as follows:

7 In any action in which any person is successful in recovering  
8 judgment for wages or salary owed to him or her, reasonable attorney's  
9 fees, in an amount to be determined by the court, shall be assessed  
10 against ((said)) the employer or former employer(~~(: PROVIDED, HOWEVER,~~  
11 ~~That)~~). This section shall not apply if the amount of recovery is less  
12 than or equal to the amount admitted by the employer to be owing for  
13 ((said)) the wages or salary.

14 **Sec. 139.** RCW 49.48.060 and 1971 ex.s. c 55 s 4 are each amended  
15 to read as follows:

16 (1) If upon investigation by the director of the department of  
17 labor and industries, after taking assignments of any wage claim under  
18 RCW 49.48.040, it appears to the director that the employer is  
19 representing to his or her employees that he or she is able to pay  
20 wages for their services and that the employees are not being paid for  
21 their services, the director may require the employer to give a bond in  
22 such sum as the director deems reasonable and adequate in the  
23 circumstances, with sufficient surety, conditioned that the employer  
24 will for a definite future period not exceeding six months conduct his  
25 or her business and pay his or her employees in accordance with the  
26 laws of the state of Washington.

27 (2) If within ten days after demand for ((such)) the bond the  
28 employer fails to provide the same, the director may commence a suit  
29 against the employer in the superior court of appropriate jurisdiction  
30 to compel him or her to furnish ((such)) the bond or cease doing  
31 business until he or she has done so. The employer ((shall have)) has  
32 the burden of proving the amount ((thereof)) of the bond to be  
33 excessive.

34 (3) If the court finds that there is just cause for requiring  
35 ((such)) a bond and that the same is reasonable, necessary, or  
36 appropriate to secure the prompt payment of the wages of the employees

1 of ~~((such))~~ the employer and his or her compliance with RCW 49.48.010  
2 through 49.48.080, the court shall enjoin ~~((such))~~ the employer from  
3 doing business in this state until the requirement is met, or shall  
4 make other, and may make further, orders appropriate to compel  
5 compliance with the requirement.

6 (4) Upon being informed of a wage claim against an employer or  
7 former employer, the director shall, if ~~((such))~~ the claim appears to  
8 be just, immediately notify the employer or former employer~~((r))~~ of  
9 ~~((such))~~ the claim by mail. If the employer or former employer fails  
10 to pay the claim or make satisfactory explanation to the director of  
11 his or her failure to do so, within thirty days thereafter, the  
12 employer or former employer ~~((shall be))~~ is liable to a penalty of ten  
13 percent of that portion of the claim found to be justly due. The  
14 director ~~((shall have))~~ has a cause of action against the employer or  
15 former employer for the recovery of ~~((such))~~ the penalty, and the same  
16 may be included in any subsequent action by the director on ~~((said))~~  
17 the wage claim, or may be exercised separately after adjustment of  
18 ~~((such))~~ the wage claim without court action.

19 **Sec. 140.** RCW 49.48.070 and 1935 c 96 s 4 are each amended to read  
20 as follows:

21 ~~((It shall be the duty of))~~ The director of labor and industries  
22 ~~((to))~~ must inquire diligently for any violations of RCW 49.48.040  
23 through 49.48.080, and ~~((to))~~ must institute ~~((the))~~ actions for  
24 penalties ~~((herein provided,))~~ and ~~((to))~~ enforce generally the  
25 provisions of RCW 49.48.040 through 49.48.080.

26 **Sec. 141.** RCW 49.48.150 and 1992 c 177 s 1 are each amended to  
27 read as follows:

28 ~~((Unless the context clearly requires otherwise,))~~ The definitions  
29 in this section apply throughout RCW 49.48.160 through 49.48.190 unless  
30 the context clearly requires otherwise.

31 (1) "Commission" means compensation paid a sales representative by  
32 a principal in an amount based on a percentage of the dollar amount of  
33 certain orders for or sales of the principal's product.

34 (2) "Principal" means a person, whether or not the person has a  
35 permanent or fixed place of business in this state, who:

1 (a) Manufactures, produces, imports, or distributes a product for  
2 sale to customers who purchase the product for resale;

3 (b) Uses a sales representative to solicit orders for the product;  
4 and

5 (c) Compensates the sales representative in whole or in part by  
6 commission.

7 (3) "Sales representative" means a person who solicits, on behalf  
8 of a principal, orders for the purchase at wholesale of the principal's  
9 product, but does not include a person who places orders for his or her  
10 own account for resale, or purchases for his or her own account for  
11 resale, or sells or takes orders for the direct sale of products to the  
12 ultimate consumer.

13 **Sec. 142.** RCW 49.48.210 and 2004 c 7 s 2 are each amended to read  
14 as follows:

15 (1) Except as provided in subsection (10) of this section, when an  
16 employer determines that an employee was overpaid wages, the employer  
17 shall provide written notice to the employee. The notice shall include  
18 the amount of the overpayment, the basis for the claim, a demand for  
19 payment within twenty calendar days of the date on which the employee  
20 received the notice, and the rights of the employee under this section.

21 (2) The notice may be served upon the employee in the manner  
22 prescribed for the service of a summons in a civil action, or be mailed  
23 by certified mail, return receipt requested, to the employee at his or  
24 her last known address.

25 (3) Within twenty calendar days after receiving the notice from the  
26 employer that an overpayment has occurred, the employee may request, in  
27 writing, that the employer review its finding that an overpayment has  
28 occurred. The employee may choose to have the review conducted through  
29 written submission of information challenging the overpayment or  
30 through a face-to-face meeting with the employer. If the request is  
31 not made within the twenty-day period as provided in this subsection,  
32 the employee may not further challenge the overpayment and has no right  
33 to further agency review, an adjudicative proceeding, or judicial  
34 review.

35 (4) Upon receipt of an employee's written request for review of the  
36 overpayment, the employer shall review the employee's challenge to the  
37 overpayment. Upon completion of the review, the employer shall notify

1 the employee in writing of the employer's decision regarding the  
2 employee's challenge. The notification must be sent by certified mail,  
3 return receipt requested, to the employee at his or her last known  
4 address.

5 (5) If the employee is dissatisfied with the employer's decision  
6 regarding the employee's challenge to the overpayment, the employee may  
7 request an adjudicative proceeding governed by the administrative  
8 procedure act, chapter 34.05 RCW or, in the case of a county or city  
9 employee, an adjudicative proceeding provided pursuant to ordinance or  
10 resolution of the county or city. The employee's application for an  
11 adjudicative proceeding must be in writing, state the basis for  
12 contesting the overpayment notice, and include a copy of the employer's  
13 notice of overpayment. The application must be served on and received  
14 by the employer within twenty-eight calendar days of the employee's  
15 receipt of the employer's decision following review of the employee's  
16 challenge. Notwithstanding RCW 34.05.413(3), agencies may not vary the  
17 requirements of this subsection (5) by rule or otherwise. The employee  
18 must serve the employer by certified mail, return receipt requested.

19 (6) If the employee does not request an adjudicative proceeding  
20 within the twenty-eight-day period, the amount of the overpayment  
21 provided in the notice shall be deemed final and the employer may  
22 proceed to recoup the overpayment as provided in this section and RCW  
23 49.48.200.

24 (7) Where an adjudicative proceeding has been requested, the  
25 presiding or reviewing officer shall determine the amount, if any, of  
26 the overpayment received by the employee.

27 (8) If the employee fails to attend or participate in the  
28 adjudicative proceeding, upon a showing of valid service, the presiding  
29 or reviewing officer may enter an administrative order declaring the  
30 amount claimed in the notice sent to the employee after the employer's  
31 review of the employee's challenge to the overpayment to be assessed  
32 against the employee and subject to collection action by the employer  
33 as provided in RCW 49.48.200.

34 (9) Failure to make an application for a review by the employer as  
35 provided in subsections (3) and (4) of this section or an adjudicative  
36 proceeding within twenty-eight calendar days of the date of receiving  
37 notice of the employer's decision after review of the overpayment shall

1 result in the establishment of a final debt against the employee in the  
2 amount asserted by the employer, which debt shall be collected as  
3 provided in RCW 49.48.200.

4 (10) When an employer determines that an employee covered by a  
5 collective bargaining agreement was overpaid wages, the employer shall  
6 provide written notice to the employee. The notice shall include the  
7 amount of the overpayment, the basis for the claim, and the rights of  
8 the employee under the collective bargaining agreement. Any dispute  
9 relating to the occurrence or amount of the overpayment shall be  
10 resolved using the grievance procedures contained in the collective  
11 bargaining agreement.

12 (11) As used in this section or RCW (~~(49.48.210-[49.48.200])~~)  
13 49.48.200 and 49.48.220:

- 14 (a) "City" means city or town;
- 15 (b) "Employer" means the state of Washington or a county or city,  
16 and any of its agencies, institutions, boards, or commissions; and
- 17 (c) "Overpayment" means a payment of wages for a pay period that is  
18 greater than the amount earned for a pay period.

19 **Sec. 143.** RCW 49.52.010 and 1975 c 34 s 1 are each amended to read  
20 as follows:

21 All money(~~s~~) collected by any employer from his or (~~its~~) her  
22 employees and all money to be paid by any employer as his or her  
23 contribution for furnishing, either directly, or through contract, or  
24 arrangement with a hospital association, corporation, firm, or  
25 individual, of medicine, medical or surgical treatment, nursing,  
26 hospital service, ambulance service, dental service, burial service, or  
27 any or all of the above enumerated services, or any other necessary  
28 service, contingent upon sickness, accident, or death, are hereby  
29 declared to be a trust fund for the purposes for which the same are  
30 collected. The trustees (or their administrator, representative, or  
31 agent under direction of the trustees) of such fund are authorized to  
32 take such action as is deemed necessary to ensure that the employer  
33 contributions are made including, but not limited to filing actions at  
34 law, and filing liens against money(~~s~~) due to the employer from the  
35 performance of labor or furnishing of materials to which the employees  
36 contributed their services. (~~(Such trust fund is subject to the~~  
37 ~~provisions of chapter 48.52 RCW.)~~)

1       **Sec. 144.** RCW 49.52.020 and 1975 c 34 s 2 are each amended to read  
2 as follows:

3       In case any employer collecting money(~~(s)~~) from his or her  
4 employees or making contributions to any type of benefit plan for any  
5 or all of the purposes specified in RCW 49.52.010, (~~shall~~) enter into  
6 a contract or arrangement with any hospital association, corporation,  
7 firm, or individual, to furnish any such service to its employees, the  
8 association, corporation, firm, or individual contracting to furnish  
9 such services, shall have a lien upon such trust fund (~~(prior to)~~)  
10 before all other liens except taxes. The lien hereby created shall  
11 attach from the date of the arrangement or contract to furnish such  
12 services and may be foreclosed in the manner provided by law for the  
13 foreclosure of other liens on personal property.

14       **Sec. 145.** RCW 49.52.030 and 1989 c 12 s 16 are each amended to  
15 read as follows:

16       All money(~~(s)~~) realized by any employer from the employer's  
17 employees either by collection or by deduction from the wages or pay of  
18 employees intended or to be used for the furnishing to workers engaged  
19 in extrahazardous work, their families or dependents, of medical,  
20 surgical, or hospital care and treatment, or for nursing, ambulance  
21 service, burial, or any or all of the above enumerated services, or any  
22 service incidental to or furnished or rendered because of sickness,  
23 disease, accident, or death, and all money(~~(s)~~) owing by any employer  
24 therefor, shall be and remain a fund for the purposes for which  
25 (~~such~~) the money(~~(s-are)~~) is intended to be used, and shall not  
26 constitute or become any part of the assets of the employer making such  
27 collections or deductions(~~(: PROVIDED, HOWEVER, That)~~). However, RCW  
28 49.52.030 and 49.52.040 shall not apply to money(~~(s)~~) collected or  
29 deducted (~~(as aforesaid)~~) for, or owing by employers to the state  
30 medical aid fund. (~~Such~~) The money(~~(s)~~) shall be paid over promptly  
31 to the physician or surgeon or hospital association or other parties to  
32 which (~~such~~) the money(~~(s-are)~~) is due and for the purposes for which  
33 (~~such~~) the collections or deductions were made.

34       **Sec. 146.** RCW 49.52.040 and 1929 c 136 s 2 are each amended to  
35 read as follows:

36       If any (~~such~~) employer (~~shall~~) defaults in any (~~such~~) payment

1 to any physician, surgeon, hospital, hospital association, or any other  
2 parties to whom any (~~such~~) payment is due, the sum so due may be  
3 collected by an action at law in the name of the physician, surgeon,  
4 hospital, hospital association, or any other party to whom (~~such~~) the  
5 payment is owing, or their assigns and against (~~such~~) the defaulting  
6 employer, and in addition to (~~such~~) the action, such claims (~~shall~~)  
7 have the same priority and lien rights as granted to the state for  
8 claims due the accident and medical aid funds by (~~section 7682 of~~  
9 ~~Remington's Compiled Statutes of Washington, 1922 [RCW 51.16.150~~  
10 ~~through 51.16.170], and acts amendatory thereto, which~~) RCW 51.16.150  
11 through 51.16.170. The priority and lien rights shall be enforced in  
12 the same manner and under the same conditions as provided in (~~said~~  
13 ~~section 7682 [RCW 51.16.150 through 51.16.170]: PROVIDED, HOWEVER,~~  
14 ~~That the said~~) RCW 51.16.150 through 51.16.170. However, the claims  
15 for physicians, surgeons, hospitals, and hospital associations and  
16 others (~~shall be~~) are secondary and inferior to any claims of the  
17 state and to any claims for labor. (~~Such~~) This right of action  
18 (~~shall be~~) is in addition to any other right of action or remedy.

19 **Sec. 147.** RCW 49.52.050 and 1941 c 72 s 1 are each amended to read  
20 as follows:

21 Any employer or officer, vice principal, or agent of any employer,  
22 whether (~~said~~) the employer (~~be~~) is in private business or is an  
23 elected public official, who:

24 (1) (~~Shall~~) Collects or receives from any employee a rebate of  
25 any part of wages (~~therefore~~) paid by (~~such~~) the employer to  
26 (~~such~~) the employee; (~~or~~)

27 (2) Willfully and with intent to deprive the employee of any part  
28 of his or her wages, (~~shall~~) pays any employee a lower wage than the  
29 wage (~~such~~) the employer is obligated to pay (~~such~~) the employee by  
30 any statute, ordinance, or contract; (~~or~~)

31 (3) (~~Shall~~) Willfully makes or causes another to make any false  
32 entry in any employer's books or records purporting to show the payment  
33 of more wages to an employee than (~~such~~) the employee received;  
34 (~~or~~)

35 (4) Being an employer or a person charged with the duty of keeping  
36 any employer's books or records (~~shall~~) willfully fails or causes

1 another to fail to show openly and clearly in due course in such  
2 employer's books and records any rebate of or deduction from any  
3 employee's wages; or

4 (5) (~~shall~~) Willfully receives or accepts from any employee any  
5 false receipt for wages;

6 (~~shall be~~) Is guilty of a misdemeanor.

7 **Sec. 148.** RCW 49.52.060 and 1939 c 195 s 2 are each amended to  
8 read as follows:

9 The provisions of RCW 49.52.050 (~~shall~~) do not make it unlawful  
10 for an employer to withhold or divert any portion of an employee's  
11 wages when required or empowered so to do by state or federal law or  
12 when a deduction has been expressly authorized in writing in advance by  
13 the employee for a lawful purpose accruing to the benefit of (~~such~~)  
14 the employee (~~nor shall~~). The provisions of RCW 49.52.050 do not  
15 make it unlawful for an employer to withhold deductions for medical,  
16 surgical, or hospital care or service, pursuant to any rule or  
17 regulation(~~:- PROVIDED, That~~). However, the employer must  
18 derive(~~s~~) no financial benefit from (~~such~~) the deduction and the  
19 (~~same~~) deduction (~~is~~) must be openly, clearly, and in due course  
20 recorded in the employer's books.

21 **Sec. 149.** RCW 49.52.070 and 1939 c 195 s 3 are each amended to  
22 read as follows:

23 Any employer and any officer, vice principal, or agent of any  
24 employer who (~~shall~~) violates (~~any of the provisions of subdivisions~~  
25 ~~(1) and (2) of~~) RCW 49.52.050 (1) or (2) (~~shall be~~) is liable in a  
26 civil action by the aggrieved employee or his or her assignee to  
27 judgment for twice the amount of the wages unlawfully rebated or  
28 withheld by way of exemplary damages, together with costs of suit and  
29 a reasonable sum for attorney's fees(~~:- PROVIDED, HOWEVER, That~~).  
30 However, the benefits of this section (~~shall not be~~) are not  
31 available to any employee who has knowingly submitted to such  
32 violations.

33 **Sec. 150.** RCW 49.52.080 and 1939 c 195 s 4 are each amended to  
34 read as follows:

35 The violations by an employer or any officer, vice principal, or

1 agent of any employer of (~~any of the provisions of subdivisions (3),~~  
2 ~~(4), and (5) of~~) RCW 49.52.050 (~~shall~~) (3) through (5) raise a  
3 presumption that any deduction from or underpayment of any employee's  
4 wages connected with (~~such~~) the violation was willful.

5 **Sec. 151.** RCW 49.52.090 and 1935 c 29 s 1 are each amended to read  
6 as follows:

7 Every person, whether as a representative of an awarding or public  
8 body or officer, or as a contractor or subcontractor doing public work,  
9 or agent or officer thereof, who takes or receives, or conspires with  
10 another to take or receive, for his or her own use or the use of any  
11 other person acting with him or her, any part or portion of the wages  
12 paid to any laborer, (~~workman~~) worker, or mechanic, including a piece  
13 worker and working subcontractor, in connection with services rendered  
14 upon any public work within this state, whether (~~such~~) the work is  
15 done directly for the state, or public body or officer thereof, or  
16 county, city and county, city, town, township, district, or other  
17 political subdivision of the (~~said~~) state or for any contractor or  
18 subcontractor engaged in (~~such~~) public work for (~~such~~) an awarding  
19 or public body or officer, (~~shall be~~) is guilty of a gross  
20 misdemeanor.

21 **Sec. 152.** RCW 49.56.010 and Code 1881 s 1972 are each amended to  
22 read as follows:

23 In all assignments of property made by any person to trustees or  
24 assignees on account of the inability of the person at the time of the  
25 assignment to pay his or her debts, or in proceedings in insolvency,  
26 the wages of the miners, mechanics, (~~salesmen~~) salespeople, servants,  
27 clerks, or laborers employed by such persons to the amount of one  
28 hundred dollars, each, and for services rendered within sixty days  
29 previously, are preferred claims, and must be paid by such trustees or  
30 assignees before any other creditor or creditors of the assignor.

31 **Sec. 153.** RCW 49.56.020 and Code 1881 s 1973 are each amended to  
32 read as follows:

33 In case of the death of any employer, the wages of each miner,  
34 mechanic, (~~salesman~~) salesperson, clerk, servant, and laborer for  
35 services rendered within sixty days next preceding the death of the

1 employer, not exceeding one hundred dollars, rank in priority next  
2 after the funeral expenses, expenses of the last sickness, the charges  
3 and expenses of administering upon the estate, and the allowance to the  
4 widow and infant children, and must be paid before other claims against  
5 the estate of the deceased person.

6 **Sec. 154.** RCW 49.56.030 and Code 1881 s 1974 are each amended to  
7 read as follows:

8 In cases of executions, attachments, and writs of similar nature  
9 issued against any person, except for claims for labor done, any  
10 miners, mechanics, (~~salesmen~~) salespeople, servants, clerks, and  
11 laborers who have claims against the defendant for labor done, may give  
12 notice of their claims and the amount thereof, sworn to by the person  
13 making the claim to the creditor and the officer executing either of  
14 such writs at any time before the actual sale of property levied on,  
15 and unless such claim is disputed by the debtor or a creditor, such  
16 officer must pay to (~~such~~) the person out of the proceeds of the  
17 sale, the amount each is entitled to receive for services rendered  
18 within sixty days next preceding the levy of the writ, not exceeding  
19 one hundred dollars. If any or all of the claims so presented and  
20 claiming preference under this chapter, are disputed by either the  
21 debtor or a creditor, the person presenting the same must commence an  
22 action within ten days from the recovery thereof, and must prosecute  
23 his or her action with due diligence, or be forever barred from any  
24 claim of priority of payment thereof(~~and~~). The officer shall  
25 retain possession of so much of the proceeds of the sale as may be  
26 necessary to satisfy (~~such~~) the claim, until the determination of  
27 such action(~~and in case~~). If judgment be had for the claim or any  
28 part thereof, carrying costs, the costs taxable therein shall likewise  
29 be a preferred claim with the same rank as the original claim.

30 **Sec. 155.** RCW 49.56.040 and 1967 ex.s. c 86 s 1 are each amended  
31 to read as follows:

32 In distraint or insolvency proceedings affecting the assets of an  
33 employer, claims for labor, salaries, or wages not to exceed six  
34 hundred dollars to each claimant (~~which~~) that have been earned within  
35 three months before the date of the distraint or commencement of the  
36 proceeding shall be paramount and superior to any claim preferred or

1 presented by an agency of the state(~~(: PROVIDED, That)~~). However,  
2 this section (~~(shall)~~) does not apply to any compensation payable to an  
3 employer or to an officer, director, or stockholder of a corporate  
4 employer.

5 **Sec. 156.** RCW 49.60.174 and 2003 c 273 s 3 are each amended to  
6 read as follows:

7 (1) For the purposes of determining whether an unfair practice  
8 under this chapter has occurred, claims of discrimination based on  
9 actual or perceived HIV or hepatitis C infection shall be evaluated in  
10 the same manner as other claims of discrimination based on sensory,  
11 mental, or physical disability; or the use of a trained dog guide or  
12 service animal by a (~~(disabled)~~) person with a disability.

13 (2) Subsection (1) of this section shall not apply to transactions  
14 with insurance entities, health service contractors, or health  
15 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178  
16 to prohibit fair discrimination on the basis of actual HIV or actual  
17 hepatitis C infection status when bona fide statistical differences in  
18 risk or exposure have been substantiated.

19 (3) For the purposes of this chapter:  
20 (a) "HIV" means the human immunodeficiency virus, and includes all  
21 HIV and HIV-related viruses which damage the cellular branch of the  
22 human immune system and leave the infected person immunodeficient; and  
23 (b) "Hepatitis C" means the hepatitis C virus of any genotype.

24 **Sec. 157.** RCW 49.60.178 and 2006 c 4 s 9 are each amended to read  
25 as follows:

26 It is an unfair practice for any person whether acting for himself,  
27 herself, or another in connection with an insurance transaction or  
28 transaction with a health maintenance organization to cancel or fail or  
29 refuse to issue or renew insurance or a health maintenance agreement to  
30 any person because of sex, marital status, sexual orientation, race,  
31 creed, color, national origin, or the presence of any sensory, mental,  
32 or physical disability or the use of a trained dog guide or service  
33 animal by a (~~(disabled)~~) person(~~(: PROVIDED, That)~~) with a disability.  
34 However, a practice (~~(which)~~) that is not unlawful under RCW 48.30.300,  
35 48.44.220, or 48.46.370 does not constitute an unfair practice for the  
36 purposes of this section. For the purposes of this section, "insurance

1 transaction" is defined in RCW 48.01.060, "health maintenance  
2 agreement" is defined in RCW 48.46.020, and "health maintenance  
3 organization" is defined in RCW 48.46.020.

4 The fact that such unfair practice may also be a violation of  
5 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an  
6 action brought under this section.

7 The insurance commissioner, under RCW 48.30.300, and the human  
8 rights commission, under chapter 49.60 RCW, shall have concurrent  
9 jurisdiction under this section and shall enter into a working  
10 agreement as to procedure to be followed in complaints under this  
11 section.

12 **Sec. 158.** RCW 49.60.250 and 1993 c 510 s 23 and 1993 c 69 s 14  
13 are each reenacted and amended to read as follows:

14 (1) In case of failure to reach an agreement for the elimination of  
15 (~~such~~) an unfair practice, and upon the entry of findings to that  
16 effect, the entire file, including the complaint and any and all  
17 findings made, shall be certified to the chairperson of the commission.  
18 The chairperson of the commission shall thereupon request the  
19 appointment of an administrative law judge under Title 34 RCW to hear  
20 the complaint and shall cause to be issued and served in the name of  
21 the commission a written notice, together with a copy of the complaint,  
22 as the same may have been amended, requiring the respondent to answer  
23 the charges of the complaint at a hearing before the administrative law  
24 judge, at a time and place to be specified in such notice.

25 (2) The place of any such hearing may be the office of the  
26 commission or another place designated by it. The case in support of  
27 the complaint shall be presented at the hearing by counsel for the  
28 commission(~~:- PROVIDED, That~~). The complainant may retain  
29 independent counsel and submit testimony and be fully heard. No member  
30 or employee of the commission who previously made the investigation or  
31 caused the notice to be issued shall participate in the hearing except  
32 as a witness, nor shall the member or employee participate in the  
33 deliberations of the administrative law judge in such case. Any  
34 endeavors or negotiations for conciliation shall not be received in  
35 evidence.

36 (3) The respondent shall file a written answer to the complaint and

1 appear at the hearing in person or otherwise, with or without counsel,  
2 and submit testimony and be fully heard. The respondent has the right  
3 to cross-examine the complainant.

4 (4) The administrative law judge conducting any hearing may permit  
5 reasonable amendment to any complaint or answer. Testimony taken at  
6 the hearing shall be under oath and recorded.

7 (5) If, upon all the evidence, the administrative law judge finds  
8 that the respondent has engaged in any unfair practice, the  
9 administrative law judge shall state findings of fact and shall issue  
10 and file with the commission and cause to be served on such respondent  
11 an order requiring such respondent to cease and desist from such unfair  
12 practice and to take such affirmative action, including, ((+))but not  
13 limited to((+)) hiring, reinstatement, or upgrading of employees, with  
14 or without back pay, an admission or restoration to full membership  
15 rights in any respondent organization, or to take ((such)) other action  
16 as, in the judgment of the administrative law judge, will effectuate  
17 the purposes of this chapter, including action that could be ordered by  
18 a court, except that damages for humiliation and mental suffering shall  
19 not exceed ten thousand dollars, and including a requirement for report  
20 of the matter on compliance. Relief available for violations of RCW  
21 49.60.222 through 49.60.224 shall be limited to the relief specified in  
22 RCW 49.60.225.

23 (6) If a determination is made that retaliatory action, as defined  
24 in RCW 42.40.050, has been taken against a whistleblower, as defined in  
25 RCW 42.40.020, the administrative law judge may, in addition to any  
26 other remedy, impose a civil penalty upon the retaliator of up to three  
27 thousand dollars and issue an order to the state employer to suspend  
28 the retaliator for up to thirty days without pay. At a minimum, the  
29 administrative law judge shall require that a letter of reprimand be  
30 placed in the retaliator's personnel file. All penalties recovered  
31 shall be paid into the state treasury and credited to the general fund.

32 (7) The final order of the administrative law judge shall include  
33 a notice to the parties of the right to obtain judicial review of the  
34 order by appeal in accordance with the provisions of RCW 34.05.510  
35 through 34.05.598, and that ((such)) the appeal must be served and  
36 filed within thirty days after the service of the order on the parties.

37 (8) If, upon all the evidence, the administrative law judge finds

1 that the respondent has not engaged in any alleged unfair practice, the  
2 administrative law judge shall state findings of fact and shall  
3 similarly issue and file an order dismissing the complaint.

4 (9) An order dismissing a complaint may include an award of  
5 reasonable attorneys' fees in favor of the respondent if the  
6 administrative law judge concludes that the complaint was frivolous,  
7 unreasonable, or groundless.

8 (10) The commission shall establish rules of practice to govern,  
9 expedite, and effectuate the foregoing procedure.

10 **Sec. 159.** RCW 49.60.310 and 1985 c 185 s 26 are each amended to  
11 read as follows:

12 Any person who willfully resists, prevents, impedes, or interferes  
13 with the commission or any of its members or representatives in the  
14 performance of duty under this chapter, or who willfully violates an  
15 order of the commission, is guilty of a misdemeanor; but procedure for  
16 the review of the order shall not be deemed to be such willful conduct.

17 **Sec. 160.** RCW 49.60.360 and 1994 c 262 s 17 are each amended to  
18 read as follows:

19 (1) Every person, firm, partnership, association, trustee, or  
20 corporation ((which)) that operates a gasoline service station, or  
21 other facility ((which)) that offers gasoline or other motor vehicle  
22 fuel for sale to the public from such a facility, shall provide, upon  
23 request, refueling service to ((disabled)) drivers who are disabled,  
24 unaccompanied by passengers capable of safely providing refueling  
25 service, of vehicles ((which)) that display a ((disabled person's))  
26 special license plate or placard issued by the department of licensing  
27 to a person with a disability. The price charged for the motor vehicle  
28 fuel in such a case shall be no greater than that which the facility  
29 otherwise would charge the public generally to purchase motor vehicle  
30 fuel without refueling service. This section does not require a  
31 facility to provide ((disabled)) drivers who are disabled with  
32 services, including but not limited to checking oil or cleaning  
33 windshields, other than refueling services.

34 (2) This section does not apply to:

35 (a) Exclusive self-service gas stations ((which)) that have

1 remotely controlled gas pumps and (~~which~~) that never provide pump  
2 island service; and

3 (b) Convenience stores (~~which~~) that sell gasoline, (~~which~~) that  
4 have remotely controlled gas pumps, and (~~which~~) that never provide  
5 pump island service.

6 (3) Any person who, as a responsible managing individual setting  
7 service policy of a station or facility or as an employee acting  
8 independently against set service policy, acts in violation of this  
9 section is guilty of a misdemeanor. This subsection shall be enforced  
10 by the prosecuting attorney.

11 (4)(a) The human rights commission shall, upon the filing of a  
12 verified written complaint by any person, investigate the actions of  
13 any person, firm, partnership, association, trustee, or corporation  
14 alleged to have violated this section. The complaint shall be in the  
15 form prescribed by the commission. The commission may, upon its own  
16 motion, issue complaints and conduct investigations of alleged  
17 violations of this section.

18 (b) RCW 49.60.240 through 49.60.280 shall apply to complaints under  
19 this section.

20 (5) In addition to those matters referred pursuant to subsection  
21 (3) of this section, the prosecuting attorney may investigate and  
22 prosecute alleged violations of this section.

23 (6) Any person who intentionally displays a license plate or  
24 placard (~~which~~) that is invalid, or (~~which~~) that was not lawfully  
25 issued to that person, for the purpose of obtaining refueling service  
26 under subsection (1) of this section (~~shall be~~) is subject to a civil  
27 fine of one hundred dollars for each (~~such~~) violation.

28 (7) A notice setting forth the provisions of this section shall be  
29 provided by the department of licensing to every person, firm,  
30 partnership, association, trustee, or corporation (~~which~~) that  
31 operates a gasoline service station, or other facility (~~which~~) that  
32 offers gasoline or other motor vehicle fuel for sale to the public from  
33 such a facility.

34 (8) A notice setting forth the provisions of this section shall be  
35 provided by the department of licensing to every person with a  
36 disability who is issued a (~~disabled person's~~) special license plate  
37 or placard.

1 (9) For the purposes of this section, "refueling service" means the  
2 service of pumping motor vehicle fuel into the fuel tank of a motor  
3 vehicle.

4 (10) Nothing in this section limits or restricts the rights or  
5 remedies provided under chapter 49.60 RCW.

6 **Sec. 161.** RCW 49.60.380 and 1997 c 271 s 24 are each amended to  
7 read as follows:

8 A county, city, or town shall honor a request by a ((blind)) person  
9 who is blind or hearing impaired ((person)) not to be charged a fee to  
10 license his or her dog guide, or a request by a ((physically disabled))  
11 person with a physical disability not to be charged a fee to license  
12 his or her service animal.

13 **Sec. 162.** RCW 49.64.030 and 1953 c 45 s 1 are each amended to read  
14 as follows:

15 Notwithstanding the provisions of RCW 26.16.030, whenever payment  
16 or refund is made to an employee, former employee, or his or her  
17 beneficiary or estate pursuant to and in full compliance with a written  
18 retirement, death, or other employee benefit plan or savings plan,  
19 ((such)) the payment or refund shall fully discharge the employer and  
20 any trustee or insurance company making ((such)) the payment or refund  
21 from all adverse claims thereto unless, before ((such)) the payment or  
22 refund is made, the employer or former employer, where the payment is  
23 made by the employer or former employer, has received at its principal  
24 place of business within this state, written notice by or on behalf of  
25 some other person that such other person claims to be entitled to  
26 ((such)) the payment or refund or some part thereof, or where a trustee  
27 or insurance company is making the payment, ((such)) the notice has  
28 been received by the trustee or insurance company at its home office or  
29 its principal place of business within this state, and if none,  
30 ((such)) the notice may be made on the secretary of state(~~(:—PROVIDED,~~  
31 ~~HOWEVER, That nothing contained in)).~~ This section ((shall)) does not  
32 affect any claim or right to any ((such)) payment or refund or part  
33 thereof as between all persons other than employer and the trustee or  
34 insurance company making ((such)) the payment or refund.

1       **Sec. 163.** RCW 49.64.040 and 1988 c 259 s 1 are each amended to  
2 read as follows:

3       (1) Unless the context clearly requires otherwise, in this section  
4 "dental care assistance plan" means any plan of dental insurance  
5 offered by an insurer as defined by chapter 48.01 RCW and any agreement  
6 for dental care benefits entered into or renewed after January 1, 1989,  
7 provided by a health care service contractor as defined by chapter  
8 48.44 RCW.

9       (2) Each employer, public or private, that offers its employees a  
10 dental care assistance plan and each employee benefits fund that offers  
11 its members a dental care assistance plan limiting the provider of  
12 dental care to designated providers or group of providers, shall make  
13 available to and inform its employees or members of the option of  
14 enrolling in an alternative dental care assistance plan that permits  
15 the employees or members to obtain dental care services from any  
16 licensed dental care provider of their choice. The portion of the  
17 premium paid by the employer for the limiting plan shall be comparable  
18 to, but in no case greater than, the portion of the premium paid by the  
19 employer for the other plan. If employees are members of a bona fide  
20 bargaining unit covered by a labor-management collective bargaining  
21 agreement, the selection of the options required by this section may be  
22 specified in the agreement. The provisions of this section are not  
23 mandatory if the employees are covered by Taft-Hartley health care  
24 trust, except that the labor-management trustees may contract with a  
25 dental care assistance plan if a feasibility study determines it is to  
26 the advantage of the members(~~(+ PROVIDED, That)~~).

27       (3) This section ((shall only apply)) applies only to employers  
28 with greater than twenty-five employees under coverage.

29       **Sec. 164.** RCW 49.66.020 and 1973 2nd ex.s. c 3 s 2 are each  
30 amended to read as follows:

31       (~~As used in this chapter:~~) The definitions in this section apply  
32 throughout this chapter unless the context clearly requires otherwise.

33       (1) "Health care activity" includes any hospital, nursing home,  
34 institution, agency, or establishment, exclusive of those operated by  
35 the state, its municipalities, or political subdivisions, having for  
36 one of its principal purposes the preservation of health or the care of  
37 sick, aged, or infirm persons.

1 (2) "Bargaining unit" includes any group of employees of a health  
2 care activity having substantially common interests with respect to  
3 working conditions. The composition of a bargaining unit may be  
4 determined by common consent between an employer and its employees, or,  
5 in the event either party (~~shall apply~~) applies to the director (~~of~~  
6 ~~labor and industries~~) for a determination of the composition of a  
7 bargaining unit, it shall be determined by the director (~~of labor and~~  
8 ~~industries~~) or his or her delegated representative. No bargaining  
9 unit shall be found appropriate if it includes guards together with  
10 other employees.

11 (3) "Employee" includes any registered nurse or licensed practical  
12 nurse or service personnel performing services for wages for a health  
13 care activity. (~~The term shall~~) "Employee" does not apply to a  
14 member of a religious order assigned to a health care activity by the  
15 order as a part of his or her obligations to it; nor (~~shall~~) does it  
16 apply to persons performing services in connection with healing by  
17 prayer or spiritual means alone in accordance with the tenets and  
18 practices of recognized church or religious denominations by adherents  
19 thereof; nor (~~shall~~) does it apply to supervisors.

20 (4) "Employer" includes any person, agency, corporation, company,  
21 or other organization engaged in the operation of a health care  
22 activity, whether for profitable or charitable purposes.

23 (5) "Supervisor" means any individual having authority, in the  
24 interest of the employer, to hire, transfer, suspend, lay off, recall,  
25 promote, discharge, assign, reward, or discipline other employees, or  
26 responsibly to direct them, or to adjust their grievances, or  
27 effectively to recommend such action, if in connection with the  
28 foregoing the exercise of such authority is not of a merely routine or  
29 clerical nature, but requires the use of independent judgment.  
30 "Supervisor" includes registered nurses only if administrative  
31 supervision is his or her primary duty and activity.

32 (6) "Guard" means any individual employed as a guard to enforce  
33 against employees and other persons rules to protect property of the  
34 employer or to protect the safety of persons on the employer's  
35 premises.

36 (7) "Director" means the director of the department of labor and  
37 industries.

38 (8) "Department" means the department of labor and industries.

1       **Sec. 165.** RCW 49.66.030 and 1973 2nd ex.s. c 3 s 3 are each  
2 amended to read as follows:

3       An employee association shall be deemed the properly designated  
4 representative of a bargaining unit when it can show evidence that  
5 bargaining rights have been assigned to it by a majority of the  
6 employees in the bargaining unit. Should questions arise concerning  
7 the representative status of any employee organization claiming to  
8 represent a bargaining unit of employees, upon petition by (~~such an~~)  
9 the organization, it (~~shall be~~) is the duty of the director, acting  
10 by himself or herself or through a designee to investigate and  
11 determine the composition of the organization. Any organization found  
12 authorized by not less than thirty percent of the employees of a  
13 bargaining unit (~~shall be~~) is eligible to apply for an election to  
14 determine its rights to represent the unit. If more than one  
15 organization (~~shall~~) claims to represent any unit, the director, or  
16 (~~his~~) the director's designee, may conduct an election by secret  
17 ballot to determine which organization (~~shall be~~) is authorized to  
18 represent the unit. In order to be certified as a bargaining  
19 representative, an employee organization must receive, in a secret  
20 ballot election, votes from a majority of the employees who vote in the  
21 election, except that nothing in this section (~~shall~~) prohibits the  
22 voluntary recognition of a labor organization as a bargaining  
23 representative by an employer upon a showing of reasonable proof of  
24 majority. In any election held pursuant to this section, there shall  
25 be a choice on the ballot for employees to designate that they do not  
26 wish to be represented by any bargaining representative. No  
27 representation election shall be directed in any bargaining unit or any  
28 subdivision thereof within which, in the preceding twelve-month period,  
29 a valid election has been held. Thirty percent of the employees of an  
30 employer may file a petition for a secret ballot election to ascertain  
31 whether the employee organization (~~which~~) that has been certified or  
32 is currently recognized by their employer as their bargaining  
33 representative is no longer their bargaining representative.

34       No employee organization shall be certified as the representative  
35 of employees in a bargaining unit of guards, if (~~such~~) the  
36 organization admits to membership, or is affiliated directly or  
37 indirectly with an organization (~~which~~) that admits to membership,  
38 employees other than guards. The determination shall be based upon a

1 plurality of votes cast in (~~such~~) the election, and shall remain in  
2 effect for a period of not less than one year. In determining  
3 appropriate bargaining units, the director shall limit (~~such~~) the  
4 units to groups consisting of registered nurses, licensed practical  
5 nurses, or service personnel(~~(:—PROVIDED, HOWEVER, That)~~). If a  
6 majority of each such classification desires inclusion within a single  
7 bargaining unit, they may combine into a single unit.

8 **Sec. 166.** RCW 49.66.040 and 1972 ex.s. c 156 s 4 are each amended  
9 to read as follows:

10 It (~~shall be deemed~~) is an unfair labor practice, and unlawful,  
11 for any health care activity to:

12 (1) Interfere with, restrain, or coerce employees in any manner in  
13 the exercise of their right of self-organization(~~(:—PROVIDED, That)~~).  
14 The expressing of any views, argument, or opinion, or the dissemination  
15 thereof, whether in written, printed, graphic, or visual form, shall  
16 not constitute or be evidence of an unfair labor practice under (~~any~~  
17 ~~of the provisions of~~) this chapter, if such expression contains no  
18 threat of reprisal or force or promise of benefit;

19 (2) Initiate, create, dominate, contribute to, or interfere with  
20 the formation or administration of any employee organization having  
21 bargaining as one of its functions;

22 (3) Discriminate in regard to hire, terms, or conditions of  
23 employment in order to discourage membership in any employee  
24 organization having collective bargaining as one of its functions;

25 (4) Refuse to meet and bargain in good faith with the duly  
26 designated representatives of an appropriate bargaining unit of  
27 employees; and it (~~shall be~~) is a requirement of good faith  
28 bargaining that the parties be willing to reduce to writing, and have  
29 their representatives sign, any agreement arrived at through  
30 negotiation and discussion.

31 **Sec. 167.** RCW 49.66.050 and 1973 2nd ex.s. c 3 s 4 are each  
32 amended to read as follows:

33 It (~~shall be~~) is an unfair labor practice and unlawful, for any  
34 employee organization or its agent to:

35 (1) Restrain or coerce (a) employees in the exercise of their right

1 to refrain from self-organization, or (b) an employer in the selection  
2 of its representatives for purposes of collective bargaining or the  
3 adjustment of grievances;

4 (2) Cause or attempt to cause an employer to discriminate against  
5 an employee in violation of (~~(subsection (3) of)~~) RCW 49.66.040 (3) or  
6 to discriminate against an employee with respect to whom membership in  
7 (~~(such)~~) the organization has been denied or terminated on some ground  
8 other than his or her failure to tender the periodic dues and  
9 initiation fees uniformly required as a condition of acquiring or  
10 retaining membership;

11 (3) Refuse to meet and bargain in good faith with an employer,  
12 provided it is the duly designated representative of the employer's  
13 employees for purposes of collective bargaining;

14 (4) Require of employees covered by a union security agreement the  
15 payment, as a condition precedent to becoming a member of (~~(such)~~) the  
16 organization, of a fee in an amount (~~(which)~~) that the director finds  
17 excessive or discriminatory under all the circumstances. In making  
18 such a finding, the director shall consider, among other relevant  
19 factors, the practices and customs of labor organizations in the  
20 particular industry, and the wages currently paid to the employees  
21 affected;

22 (5) Cause or attempt to cause an employer to pay or deliver or  
23 agree to pay or deliver any money or other thing of value, in the  
24 nature of an exaction, for services (~~(which)~~) that are not performed or  
25 not to be performed;

26 (6) Enter into any contract or agreement, express or implied,  
27 whereby an employer or other person ceases or refrains, or agrees to  
28 cease or refrain, from handling, using, selling, transporting, or  
29 otherwise dealing in any of the products or services of any other  
30 employer or person, or to cease doing business with any other employer  
31 or person, and any such contract or agreement (~~(shall be)~~) is  
32 unenforceable and void; or

33 (7) Engage in, or induce or encourage any individual employed by  
34 any employer or to engage in, an activity prohibited by RCW 49.66.060.

35 **Sec. 168.** RCW 49.66.060 and 1972 ex.s. c 156 s 6 are each amended  
36 to read as follows:

37 No employee organization, bargaining representative, person, or

1 employee shall authorize, sanction, engage in, or participate in a  
2 strike (including but not limited to a concerted work stoppage of any  
3 kind, concerted slowdown, or concerted refusal or failure to report for  
4 work or perform work) or picketing against an employer under any  
5 circumstances, whether arising out of a recognition dispute, bargaining  
6 impasse, or otherwise(~~(: PROVIDED, That nothing in)~~). This section  
7 (~~shall~~) does not prohibit picketing or other publicity for the sole  
8 purpose of truthfully advising the public of the existence of a dispute  
9 with the employer, unless an effect of such picketing or other  
10 publicity is (~~(a)~~) (1) to induce any employee of the employer or any  
11 other individual, in the course of his or her employment, not to pick  
12 up, deliver, or transfer goods, not to enter the employer's premises,  
13 or not to perform services; or (~~(b)~~) (2) to induce (~~such an~~) the  
14 employee or individual to engage in a strike.

15 **Sec. 169.** RCW 49.66.070 and 1973 2nd ex.s. c 3 s 5 are each  
16 amended to read as follows:

17 The director or any employee organization qualified to apply for an  
18 election under RCW 49.66.030 (~~as now or hereafter amended~~) or any  
19 employer may maintain in its name or in the name of its members legal  
20 action in any county in which jurisdiction of the employer or employee  
21 organization may be obtained, to seek relief from the commission of an  
22 unfair labor practice(~~(: PROVIDED, That)~~). Such employer or employee  
23 organization exhausts the administrative remedies under rules (~~and~~  
24 ~~regulations promulgated~~) adopted by the department (~~prior to~~) before  
25 seeking such court action.

26 The department is empowered and directed to prevent any unfair  
27 labor practice and to issue appropriate remedial orders. Any party  
28 aggrieved by any remedial order is entitled to the judicial review  
29 thereof in accordance with (~~the provisions of~~) chapter 34.05 RCW.

30 **Sec. 170.** RCW 49.66.080 and 1973 2nd ex.s. c 3 s 6 are each  
31 amended to read as follows:

32 The director (~~shall have the power to make such~~) may adopt rules  
33 (~~and regulations not inconsistent~~) consistent with this chapter,  
34 including the establishment of procedures for the hearing and  
35 determination of charges alleging unfair labor practices, and for a  
36 determination on application by either party when an impasse has

1 arisen, and as ~~((he shall))~~ the director determines are necessary to  
2 effectuate its purpose and to enable him or her to carry out its  
3 provisions.

4 **Sec. 171.** RCW 49.66.090 and 2005 c 433 s 44 are each amended to  
5 read as follows:

6 ~~((In the event that))~~ If a health care activity and an employees'  
7 bargaining unit ~~((shall))~~ reach an impasse, the matters in dispute  
8 shall be submitted to a board of arbitration composed of three  
9 arbitrators for final and binding resolution. The board shall be  
10 selected in the following manner: Within ten days, the employer shall  
11 appoint one arbitrator and the employees shall appoint one arbitrator.  
12 The two arbitrators ~~((se))~~ selected and named shall within ten days  
13 agree upon and select the name of a third arbitrator who shall act as  
14 ~~((chairman))~~ chair. If, upon the expiration of the period allowed  
15 therefor the arbitrators are unable to agree on the selection of a  
16 third arbitrator, ~~((such))~~ the arbitrator shall be appointed at the  
17 request of either party in accordance with RCW 7.04A.110, and that  
18 person shall act as chair of the arbitration board.

19 **Sec. 172.** RCW 49.66.100 and 1972 ex.s. c 156 s 10 are each amended  
20 to read as follows:

21 The arbitration board, acting through its ~~((chairman))~~ chair, shall  
22 call a hearing to be held within ten days after the date of the  
23 appointment of the ~~((chairman))~~ chair. The board shall conduct public  
24 or private hearings. Reasonable notice of ~~((such))~~ the hearings shall  
25 be given to the parties who shall appear and be heard either in person  
26 or by counsel or other representative. Hearings shall be informal and  
27 the rules of evidence prevailing in judicial proceedings shall not be  
28 binding. A recording of the proceedings shall be taken. Any oral or  
29 documentary evidence and other data deemed relevant by the board may be  
30 received in evidence. The board ~~((shall have the power to))~~ may  
31 administer oaths, require the attendance of witnesses, ~~((and))~~ require  
32 the production of such books, papers, contracts, agreements, and  
33 documents as may be deemed by the board material to a just  
34 determination of the issues in dispute, and ~~((to))~~ issue subpoenas. If  
35 any person refuses to obey such subpoena or refuses to be sworn to  
36 testify, or any witness, party, or attorney is guilty of any contempt

1 while in attendance at any hearing held (~~hereunder~~) under this  
2 section, the board may invoke the jurisdiction of any superior court  
3 and such court (~~shall have~~) has jurisdiction to issue an appropriate  
4 order. A failure to obey (~~such~~) the order may be punished by the  
5 court as a contempt thereof. The hearing conducted by the arbitrators  
6 shall be concluded within twenty days of the time of commencement and,  
7 within ten days after conclusion of the hearings, the arbitrator shall  
8 make written findings and a written opinion upon the issues presented,  
9 a copy of which shall be mailed or otherwise delivered to the  
10 employees' negotiating agent or its attorney or other designated  
11 representative and to the employer or the employer's attorney or  
12 designated representative. The determination of the dispute made by  
13 the board (~~shall be~~) is final and binding upon both parties.

14 **Sec. 173.** RCW 49.66.120 and 1975-'76 2nd ex.s. c 34 s 147 are each  
15 amended to read as follows:

16 The arbitrator so selected by the parties shall be paid at the  
17 daily rate or rates not to exceed the usual or customary rates paid to  
18 arbitrators in addition to travel expenses at the rates provided in RCW  
19 43.03.050 and 43.03.060 (~~as now existing or hereafter amended~~). Such  
20 sums together with all expenses of the hearing shall be borne equally  
21 by the parties to the arbitration proceedings.

22 **Sec. 174.** RCW 49.66.900 and 1972 ex.s. c 156 s 13 are each amended  
23 to read as follows:

24 If any portion of this chapter, or its application to any  
25 particular health care activity or class of health care activity,  
26 (~~should be~~) is held invalid, the remainder of the chapter, or its  
27 application to other health care activities, or other classes thereof,  
28 (~~shall not be~~) is not affected.

29 **Sec. 175.** RCW 49.70.170 and 2004 c 276 s 911 are each amended to  
30 read as follows:

31 (1) The worker and community right to know fund is (~~hereby~~)  
32 established in the custody of the state treasurer. The department  
33 shall deposit all money(~~s~~) received under this chapter in the fund.  
34 Money(~~s~~) in the fund may be spent only for the purposes of this  
35 chapter following legislative appropriation. Disbursements from the

1 fund shall be on authorization of the director or the director's  
2 designee. (~~During the 2003-2005 fiscal biennium, moneys in the fund~~  
3 ~~may also be used by the military department for the purpose of~~  
4 ~~assisting the state emergency response commission and coordinating~~  
5 ~~local emergency planning activities.~~) The fund is subject to the  
6 allotment procedure provided under chapter 43.88 RCW.

7 (2) The department shall assess each employer who reported ten  
8 thousand four hundred or more worker hours in the prior calendar year  
9 an annual fee to provide for the implementation of this chapter. The  
10 department shall (~~promulgate~~) adopt rules establishing a fee schedule  
11 for all employers who reported ten thousand four hundred or more worker  
12 hours in the prior calendar year and are engaged in business operations  
13 having a standard industrial classification, as designated in the  
14 standard industrial classification manual prepared by the federal  
15 office of management and budget, within major group numbers 01 through  
16 08 (agriculture and forestry industries), numbers 10 through 14 (mining  
17 industries), numbers 15 through 17 (construction industries), numbers  
18 20 through 39 (manufacturing industries), numbers 41, 42, and 44  
19 through 49 (transportation, communications, electric, gas, and sanitary  
20 services), number 75 (automotive repair, services, and garages), number  
21 76 (miscellaneous repair services), number 80 (health services), and  
22 number 82 (educational services). The department shall establish the  
23 annual fee for each employer who reported ten thousand four hundred or  
24 more worker hours in the prior calendar year in industries identified  
25 by this section, provided that fees assessed shall not be more than two  
26 dollars and fifty cents per full-time equivalent employee. The annual  
27 fee shall not exceed fifty thousand dollars. The fees shall be  
28 collected solely from employers whose industries have been identified  
29 by rule under this chapter. The department shall (~~promulgate~~) adopt  
30 rules allowing employers who do not have hazardous substances at their  
31 workplace to request an exemption from the assessment and shall  
32 establish penalties for fraudulent exemption requests. All fees  
33 collected by the department (~~pursuant to~~) under this section shall be  
34 collected in a cost-efficient manner and shall be deposited in the  
35 fund.

36 (3) Records required by this chapter shall at all times be open to  
37 the inspection of the director, or (~~his~~) the director's designee  
38 including, the traveling auditors, agents or assistants of the

1 department provided for in RCW 51.16.070 and 51.48.040. The  
2 information obtained from employer records under (~~the provisions of~~)  
3 this section (~~shall be~~) is subject to the same confidentiality  
4 requirements as set forth in RCW 51.16.070.

5 (4) An employer may appeal the assessment of the fee or penalties  
6 pursuant to the procedures set forth in Title 51 RCW and accompanying  
7 rules except that the employer shall not have the right of appeal to  
8 superior court as provided in Title 51 RCW. The employer from whom the  
9 fee or penalty is demanded or enforced, may however, within thirty days  
10 of the board of industrial insurance appeal's final order, pay the fee  
11 or penalty under written protest setting forth all the grounds upon  
12 which (~~such~~) the fee or penalty is claimed to be unlawful, excessive,  
13 or otherwise improper and thereafter bring an action in superior court  
14 against the department to recover (~~such~~) the fee or penalty or any  
15 portion of the fee or penalty which was paid under protest.

16 (5) Repayment shall be made to the general fund of any money(~~s~~)  
17 appropriated by law in order to implement this chapter.

18 **Sec. 176.** RCW 49.70.210 and 1987 c 365 s 1 are each amended to  
19 read as follows:

20 (1) It is the intent of the legislature that this chapter shall not  
21 apply to products that are generally made available to the  
22 noncommercial consumer(~~:- PROVIDED, That~~) if such "consumer" products  
23 used by employees in the workplace are used in substantially the same  
24 manner, form, and concentration as they are used by noncommercial  
25 consumers, and that the product exposure is not substantially greater  
26 to the employee than to the noncommercial consumer during normal and  
27 accepted use of that product.

28 (2) The department shall adopt rules in accordance with chapter  
29 34.05 RCW to implement this section. This section shall not affect the  
30 department's authority to implement and enforce the Washington  
31 industrial safety and health act, chapter 49.17 RCW, at least as  
32 effectively as the federal occupational safety and health act.

33 **Sec. 177.** RCW 49.74.005 and 1985 c 365 s 7 are each amended to  
34 read as follows:

35 Discrimination because of race, creed, color, national origin, age,  
36 sex, marital status, or the presence of any sensory, mental, or

1 physical handicap is contrary to the findings of the legislature and  
2 public policy. The legislature finds and declares that racial  
3 minorities, women, persons in protected age groups, persons with  
4 disabilities, Vietnam-era veterans, and (~~disabled~~) veterans who are  
5 disabled are underrepresented in Washington state government  
6 employment.

7 The purpose of this chapter is to provide for enforcement measures  
8 for affirmative action within Washington state government employment  
9 and institutions of higher education in order to eliminate such  
10 underrepresentation.

11 NEW SECTION. **Sec. 178.** The following acts or parts of acts are  
12 each repealed:

13 (1) RCW 49.04.141 (Transportation opportunities--Report) and 2003  
14 c 363 s 202;

15 (2) RCW 49.08.060 (Tender on exhaustion of available funds) and  
16 1903 c 58 s 6;

17 (3) RCW 49.17.288 (Cholinesterase monitoring--Reports) and 2004 c  
18 272 s 2;

19 (4) RCW 49.32.072 (Injunctions--Hearings and findings--Temporary  
20 orders--Security) and 1933 ex.s. c 7 s 7;

21 (5) RCW 49.32.073 (Injunctions--Complaints, conditions precedent)  
22 and 1933 ex.s. c 7 s 8;

23 (6) RCW 49.32.074 (Injunctions--Findings and order essential) and  
24 1933 ex.s. c 7 s 9; and

25 (7) RCW 49.32.910 (General repealer) and 1933 ex.s. c 7 s 15.

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